

MARION COUNTY PLANNING COMMISSION

RECORD OF PROCEEDINGS

FEBRUARY 26, 1998

Chairman Sieger called the meeting to order at 7:30 p.m.

Roll Call was answered by Dean Fincham, Don Fruechting, Terry Eberhard, Marquette Eilerts, Jo Helmer, Clark Wiebe, Eldon Pankratz, Bob Unruh and Eileen Sieger. Herb Bartel was in attendance. Bob Hein was also in attendance.

Eileen asked if there were any additions to off agenda items. There were none.

Eileen asked if there were any corrections or additions to the minutes of the January 22, 1998 meeting. There were no changes. Bob Unruh moves to approve the minutes of January 22, 1998. Eldon Pankratz seconds. **In favor: 9, Opposed: 0, Motion carries.**

Item #4 - **Continuation of application for Otto Bartel** - application for rezone from Ag to RR. Application was tabled from the January 22, 1998 meeting due to specific concerns. Mr. Rod Peters spoke on this application. There was a problem with the boundary lines. In order to meet setback requirements, the property line will be moved 50 ft. All buildings will then be within the setback limits. Applicant stated that there will be an agricultural use notice/nuisance disclaimer filed with the deed to the property so that any potential buyer will understand that this property is agricultural. **(A copy of the disclaimer is attached and made part of the original record)**. Bob Unruh stated that the disclaimer could be filed as a covenant to the property and would remain with the property. Bob Unruh asked if the farm/outbuildings are located on the orange section of the map. The Applicant stated that they are not located in the orange section of the map. Public hearing portion of the hearing was closed by Eileen.

Item #5 - **Application for Marion County Rural Water District. No. 4** - application for conditional use permit. Application was duly published in the Peabody Gazette on Wednesday, January 22, 1998. Mr. John Reznicek, Member of the Board of Directors, spoke on this application. Marion County Rural Water District has been in operation for 20 years. There are over 500 users. They are in the process of updating and expanding the district. This is why another tower is needed. They have all approvals from required agencies. The tower will be located 2 ½ miles west of Hillsboro, on the south side of the road. The tower will be 110 ft. and will be 200,000 or 300,000 in capacity. The tower will have four legs. It will set 125 to 130 ft. from the road into the field on

the south side. It will be fenced with a rock drive leading to the tower. Eileen asked if this tower would be located right off Highway 56. Applicant stated yes. Dean asked about the lights on the tower for night time. Applicant stated that there will be lights on this tower for night time. Mr. Gaylan Penner stated there will be an 8" line going to the tower and a 4" line leaving the tower going west to Highway 15 and north on the Highway four miles. Lines will be buried on private property. Bob Unruh asked if there was a main line going down Highway 56. Applicant stated yes. Eldon Pankratz stated that he is the Chair for the Marion County Water District No. 4 and will abstain from any discussion and voting on this application. Eileen asked if there were any surrounding property owners. There were none. Bob Unruh asked about the property being farmed around the tower. Applicant stated there will be grass and it will be farmed around the tower. Public hearing portion of the hearing was closed by Eileen.

Item #6 - Application for Gary Becker - Application for rezone and variance. Applicant was not present as of 7:55 p.m. Commission will return to this application.

Item #4 - Continuation of application for Otto Bartel - Eileen asked for a recommendation from Herb. Herb stated that he confirms what Mr. Peters said. Herb told Applicant not to have property surveyed again until the outcome of this meeting is known. Marquette stated that she thought that all the voiced concerns have been satisfied. Herb stated that he can recommend this application. This is the kind of agricultural operation we want to foster in this county. Eldon Pankratz made a motion that the rezone be approved with the proper filing of the agricultural use notice/nuisance disclaimer with the deed. Terry seconds. **In favor: 9, opposed: 0.** Motion carries.

Item #5 - Application for Marion County Rural Water District. No. 4. Eileen called for discussion. Clark Wiebe stated that needs to disclose that he has an application with this water district. Herb Bartel stated that he is a member of this district. Marquette Eilerts stated that she worked a long time with this district to get them to this point. Bob Unruh stated that he is also a member of the district. Don Fruechting stated that he is also a member of the district. Dean Fincham moves that we recommend approval of the conditional use permit. Terry seconds. **In favor: 5, opposed: 0.** Motion carries. (Clark, Eldon Don & Bob abstain from voting).

Item #6 - Application for Gary Becker - Application for rezone and variance. Applicant still was not present. This application will be continued to the March 26, 1998 meeting.

Don made a motion to adjourn the meeting. Terry seconds. **In favor: 9, opposed: 0.** Motion carries.

PLANNING & ZONING COMMISSION

Eileen Sieger
Eileen Sieger, Chair

B**Agricultural Use Notice /
Nuisance Disclaimer**

Agriculture as practiced today is an industrial process that involves the use of chemical fertilizers, herbicides, pesticides, and heavy machinery. Although farms are attractive to look at, there may be some inconveniences and even hazards in living next to one. All states have "right-to-farm" laws, which generally offer farmers some protection against lawsuits brought by neighbors in complaint about normal farming practices (called nuisance suits). These laws, however, have not been widely tested in the courts.

A better way to reduce conflicts between farmers and nonfarm neighbors is by including in the town's zoning ordinance an Agricultural Use Notice. Prospective buyers and current landowners of any property located in or adjacent to an agricultural zone must be forewarned thereby that farming operations generate noise, dust, odors, and sprays that often spill over onto neighboring lands. The following Agricultural Use Notice is strongly recommended:

All lands within the Agricultural Zone are located in an area where land is used for commercial agricultural production. Owners, residents, and other users of this property or neighboring property may be subjected to inconvenience, discomfort, and the possibility of injury to property and health arising from normal and accepted agricultural practices and operations, including but not limited to noise, odors, dust, the operation of machinery of any kind, including aircraft, the storage and disposal of manure, the application of fertilizers, soil amendments, herbicides, and pesticides. Owners, occupants, and users of this property should be prepared to accept such inconveniences, discomfort, and possibility of injury from normal agricultural operations, and are hereby put on official notice that the state Right-to-Farm Law may bar them from obtaining a legal judgment against such normal agricultural operations. (Warwick Township, Lancaster County, Pennsylvania)