

MARION COUNTY PLANNING COMMISSION

RECORD OF PROCEEDINGS

JULY 24, 1997

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

Roll Call was answered by Marquette Eilerts, Dorman Becker, Terry Eberhard, Clark Wiebe, Eldon Pankratz, Dean Fincham and Eileen Sieger. Herb Bartel was in attendance. Don Fruechting arrived at 7:35. Jo Helmer was absent. Commissioner Jack Bruner arrived at 8:05.

Eileen asked if there were any corrections or additions to the minutes of the May 22, 1997 meeting. There were none. Dorman moves to approve the minutes of May 22, 1997. Dean seconds. **In favor: 7, Opposed: 0, Motion carries.** (Don was not yet present to vote).

Eileen announced that Item #4 - the continuation of application for Ms. Sharon Hiebert rezone will be withdrawn. Ms. Hiebert is in the process of writing a letter to the Commission for the withdrawal. Ms. Hiebert called Herb Bartel on July 24, 1997 to withdraw and stated her intentions of putting this request in writing.

Off Agenda items- Eileen stated she wanted to add the consideration of an invitation by the Marion County Economic Development Council to the agenda. Clark stated that he would like to add an item to discuss the length of time that development rights go with the land and if they expire.

Item #5 - Application for **Mrs. Verna Funk** - Rezone pending from AG to RR. Item was published in the Hillsboro Star Journal on June 25, 1997. Lyle Lepke, Seibel Real Estate, spoke on behalf of the Applicant on this item. Mrs. Funk owns 80 acres, and would like to sell the farmstead and retain ownership of the balance of her land. Tract has not been surveyed. Boundaries have been set on the north by hedgerow, east to the road. Eileen asked how old the house was and how long since the buildings have been used for farming operations. Lyle answered that the home was built in the 1960's and has been 15 years since the buildings have been used. Eileen asked if there was a prospective buyer. Lyle answered not at this time. Dorman asked if this property was on the water district and which district. Lyle answered that it is Rural Water #4, Hillsboro district. Property also has a well. Marquette asked about the lagoon. Lyle stated it is located back in behind the trees. Lyle stated that her nephew is farming the land. Cropland was in wheat this year. Eileen asked if there were any surrounding property owners to speak on this application. There were none. Eileen closed the public hearing

portion of this application.

Item #6 - Application for **Joyce Watts**, rezone from AG to RR. Duly published in the Hillsboro Star Journal on 6/25/97. Joyce Watts spoke on this application. Applicant stated that she owns 80 acres, part cropland and part pasture, and wishes to sell the farm and a little pasture to consist of 10 acres. Applicant's son wants to purchase the 10 acres. The house was built in 1953, the barn in 1950. Driveway is to the North. Applicant stated that no one has lived in the house for 11 years. Property is on rural water and has a septic tank. Eileen asked if there any surrounding property owners to speak on this application. Ms. Ethel Schmidt had questions on why she received notification (selectability). Eileen explained. Dorman asked if she was going to retain ownership of the rest of the property. Applicant stated yes. Mr. Ruston Schraeder (Joyce Watts son) spoke about the fence. Mr. Marcus Schraeder spoke about access. Eileen closed the public hearing portion of this application.

Item #7 - Coop Grain - they were not available. Commission will return to this item.

Item #8 - Application for Heartland Wireless - variance pending on conditional use permit requirement for strobe lights on tower. Mr. Keith Collett spoke on this application. Mr. Rodney Stansfield and Mr. Chris Dailedouze, both from Heartland Wireless, were in attendance. Keith Collett stated that Heartland was not aware of the need for a permit for the tower. Keith also stated that there was a miscommunication in the beginning, and Heartland is looking at a tremendous loss to put up the lights now. (See attached list). Heartland has complied with F.A.A. requirements. Keith asked what benefit the county receives from forcing this \$50,000.00 retrofit on Heartland. Keith also stated that we are the only other zoned county (besides Dickinson) that requires strobe lights on the towers, (anything over and beyond FAA requirements). Keith stated that Heartland has been a good citizen and has benefited the schools to the tune of \$50,000.00, \$10,000.00 to every district. Keith stated again, this is all a result of a miscommunication. Pat Patterson asked what the average height of a tower was. Keith answered that he did not know, that Harvey County had just allowed the construction of an 1,100 ft. tower. Clark asked Keith if he conceded that local units of government have the ability to set regulations that are more restrictive than F.A.A. regulations. Keith stated that they do have the power, but the county level is pretty small for governing airplanes. Clark stated that from the presentation made by Applicant's attorney, Keith Collett, a lot of the burden is being put on the Commission for not adequately informing Heartland of the responsibilities, and that he feels it is the responsibility of the applicant to find out what the regulations are. Keith stated that they tried and that there was miscommunication and wrong answers were given out. Terry stated that if a county is zoned, Heartland should have enough experience to be aware of the requirements in a zoned



county. Chris Dailedouze stated that 26 systems were built last year across the country. One of the first requirements is for Heartland to contact the county and find out if a conditional use permit is required. Chris Dailedouze stated that they did contact Marion County. Eileen asked if they stated that it was a 850 ft. tower. Chris Dailedouze stated yes. Eileen stated that it was a year ago January that the call came in. Clark stated that the tower went up in January and that Heartland didn't apply for the permit until July. Herb Bartel stated that he saw the tower in February, Karen was asked to immediately call and inform them of the violation. The delay and hardship is self imposed because Heartland didn't respond to the Commission when asked to. There was vast and various discussion between Commission Members and Heartland. More discussion of misunderstandings and miscommunications. Keith asked if Heartland could do a form of community service and pay \$25,000.00. Eileen asked if there were any surrounding property owners to speak on this application. The Pilots Association spoke on their concerns, Mr. Dennis Scharenberg spoke on his concerns and clarified that the real issue is safety. Mr. Marvin Rediker and Mr. Mike Knack spoke on their concerns on the safety issues. Herb Bartel spoke and asked the Planning Commission to deny the variance. Mrs. Rediker spoke on her concerns. Eileen read a letter from the Marion County Aviation Association and closed the public portion of the hearing.

Item #7 - Coop Grain - they were not ready for their presentation and will reschedule.

Item #5 - Application for **Mrs. Verna Funk** - Rezone pending from AG to RR. Terry stated that he does not have a problem with this application. Eileen called for discussion. Clark mentioned the natural boundaries and read the purposes for rural residential district from the Regulations. Don stated that the drawback is that it is off the beaten path. Clark moves that we recommend the zone change from AG to RR because the proposed area contains a suitable buffer between itself and the agricultural land nearby which would not detrimentally affect the nearby property, however, this is a predominately agricultural area with few rural residences and we wish to maintain the rural character of the area in spite of rezoning this particular tract. Dean Seconds. **In favor: 7, Opposed: 0, Motion carries.** (Don Fruechting abstained from voting).

Item #6 - Item #6 - Application for **Joyce Watts**, rezone from AG to RR. Eileen asked Members if they were comfortable with the boundaries and called for a motion. Marquette moves that we recommend the rezone on this application, as it has a proper buffer zone, existing fences and because the property is staying in the family. Dorman seconds. **In favor: 8, Opposed: 0, Motion carries.**

Item #8 - Application for Heartland Wireless - variance pending on conditional use permit requirement for strobe lights on tower. Eldon asked if the 850 ft. tower was put up without a conditional

use permit. Eileen answered yes, and explained the history. Dean made a motion that we deny the variance to Heartland Wireless, because of the safety factor and that it does not meet all the conditions of the Regulations. Don seconds. **In favor: 8, Opposed: 0, Motion carries.**

Item #9 - Off Agenda Items - Stacey Stenseng is the Chairperson of the Marion County Economic Development Council in regard to some concerns that were brought to the Council. One concern is whether the Zoning Regulations are promoting growth or stifling growth in Marion County, they are extending an invitation for the Commission to attend one of their meetings. The Members stated that the Economic Development Council needs to come to the Commission with their concerns. Jack Bruner also spoke.

Dorman made a motion to adjourn the meeting. Terry seconds. **In favor: 8, opposed: 0. Motion carries.**

PLANNING & ZONING COMMISSION

  

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Eileen Sieger, Chair