

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

RECORD OF PROCEEDINGS

March 22, 2007

Chairman David Mueller called the meeting to order at 7:32 p.m., with a quorum present.

Roll Call was answered by Mueller, Ervin Ediger, Willis Ensz, Jeff Bina, Mary Avery and Marquette Eilerts. Kent Becker, Bob Maxwell and Glen Unrau were absent. Zoning Administrator Bobbi Strait was present, along with consultant Dave Yearout and Marion County Commissioner Dan Holub.

Item 3: Record of Proceedings of the February 22, 2007, meeting of the Marion County Planning Commission/Board of Zoning Appeals. Mueller asked if there were any additions or corrections. Ensz made a motion to approve the Record of Proceedings as written and Avery seconded the motion.

In favor: 6; Opposed: 0; Motion carried.

Item 4: An application for Daniel Frantz to obtain a permit to own a junkyard to obtain a state salvage license. Mueller reminded members they are acting as the planning commission for this application. Mueller said this application was published in the February 28, 2007 issues of the *Marion County Record*, *Hillsboro Star Journal* and *Peabody Gazette Bulletin*. Mueller asked members if anyone had a conflict of interest for this application, or if anyone had any outside contact concerning this application, but no one did. Frantz was present to speak about his application and he explained it is all for personal use, they do not sell anything. It is the cleanest salvage yard you have ever seen, Strait said. Frantz said he has 80 trees ordered to plant and that he sprays once a month for weeds. There is no rodent problem, Strait said. The thistles need spraying because the neighbor does not keep them out and they are hard to keep from coming in, Frantz said. You can spray one day and go out the next day and five more have come in, Frantz said. It has always been for our personal use, Frantz said. He explained his sons have demolition derby cars and antique cars. There are cars they can sell, but they won't sell them, Frantz said about his kids. We are arranging them all again, and you won't be able to see them from the north at all, Frantz said. There is some farm equipment in there, too, Frantz said. The main thing is you can't see it from the road, Mueller said. The only way I saw it was I had to stop and clean the mud out from my wheel wells and I got back in my vehicle, and there it was, Strait said. I just need to get the okay here and then get it okayed with the state, Frantz said. He's very prompt on paperwork, Strait said. I just think he wasn't aware he needed a permit, Strait said. Frantz agreed he would have come in a long time ago but he didn't know he needed a permit as this is not a business and it is all for personal use. Strait went over her staff

report. This has not been licensed as a salvage yard by the KDOT (Kansas Department of Transportation), but it has also not been a nuisance over the years, Strait said. Allowing a CUP (Conditional Use Permit) on this property will not change what is happening already, Strait said. I do not expect this to create a detriment, Strait said. The land use tax rates will remain the same, Strait said. He is not in a populated area, Strait said. The nearest residence is more than a half mile away, Strait added. No complaints have been received on this property, Strait said. I can not find anything in the comprehensive plan regarding junkyards, Strait said. Strait read from her report the requirements for compliance and the definition of a junkyard. This doesn't require a rezone, Strait said. I do not think you need a development plan for this application, Strait said. We usually have hay bales on the south and west sides, which also helps hide it, Frantz said. Ediger asked and Frantz said yes, the adjoining land is his, also. Really, the surrounding property isn't an issue as it's his property all around there, Mueller said. Bina asked if the state is making Frantz plant trees and Frantz said yes. Frantz explained he is trying to plant other trees, too, as cedar trees take a long time to grow. It is not a flood risk, either, Strait said. It was on the application we had last month, but not on this application, Strait said. Yearout said state law since 1968 applies to any place that keeps 10 or more inoperable vehicles, and it requires a license. It's all about inoperable vehicles, not about a business, Yearout said. Another term is motor vehicle graveyard, he said. A lot of people allow people to drop off vehicles, but they don't keep it up like you do, Yearout told Frantz. You do have the ability to limit the extent of the approval because the CUP stays with the land, in case he sells and it's zoned for a junkyard, Yearout told members. You could limit the CUP so it accommodates what he is doing, but if someone else comes in, it doesn't leave a blank check in there, Yearout said. I'm not telling you this is what you should do, I'm just giving you an option, Yearout told members. Mueller asked if there were any other comments, but there were none. Mueller closed the public hearing for this application and asked members to begin deliberating.

I like the idea of letting it keep going as he is operating things, Ediger said. Unless his boys take over, it would still have the CUP on it and someone could come in and build what we saw last month, Ediger said. So, are you thinking of limiting it to the owner and owner's family's personal storage of inoperable vehicles?, Mueller asked. Does that address your concerns?, Mueller asked. Mueller asked if other members agreed and they did. Mueller asked if there were other issues with this application. It's a lot easier when it's a nice well-maintained operation, Mueller said. When we took the King resolution to the county commission they required a survey within 90 days and the fencing be 75 percent complete by October 1, 2007, and that he have a plan for removal and disposal of auto fluids, Strait said. Would that be an issue in this case?, Mueller asked. It is not an issue for this, Holub said. Mr. King was yanking out components, which is a different thing, Holub said. That was our concern, the reusable components compared to scrap, Holub said. There is some value with staying consistent but especially with CUP's it is a case by case issue, Yearout said. It is not nearly as

told members. If it was a big national company, they publish notices in newspapers to see if there is anything of historical significance in the area, Yearout said. It doesn't mean they have applied, it's just part of the game they go through, Yearout said. So, there is actually no formal application, Mueller said. I had a message on my voice mail the first day I started here, and Shelly (Abbott-Becker, head dispatcher, etc., at the Sheriff's Office) worked with him on a tower near Florence, so maybe they are getting close to the application stage, Strait said. Avery asked if the permit expired for the tower near Peabody. David Brazil usually put 90 days on permits, Strait said. The permit does not expire, but the development plan does, Yearout said. So, it can be handled in my office, Strait said. Shelly said they may wait until the Peabody tower goes up to see if that helps the problem, Holub said. The next meeting is scheduled for April 26, 2007, Mueller said. There are no applications, Strait said. Let's see how the work session goes and decide if we need to meet in April, or not, at the end of the evening, Mueller said. Ensz asked about construction of a home on Indigo. Strait said it is okay, as this property was rezoned in 1997, or 1998. Strait said they bought a parcel from Suderman's, so it is okay. So, they can build two more on there?, Ensz asked, and Strait said yes. They brought me a survey from back then, Strait said. I could bring it in and show you, Strait said. No, that's okay, Ensz said. I did check it out because I thought they were going to have to come in for a lot split, Strait said. Holub asked what happened with the Kruse property at the county lake. That wasn't accommodating for runoff water and things, Eilerts said. No decision was made, Strait said. They probably ran real numbers and found out what it was going to cost, Yearout said. Mueller asked if there was anything else. Eilerts asked if paperwork for members could be three-hole punched. Ediger made a motion to adjourn the meeting and Bina seconded the motion. In favor: 6; Opposed: 0; Motion carried and the meeting adjourned at 8:35 p.m.

Members began the work session at 8:50 p.m. Mueller asked Yearout to recap things for Bina. Yearout explained that he and Strait are trying to determine how properties are broken out by lot size and different zoning districts. We are trying to identify how property was zoned, which may raise more questions than answers, Yearout said. We have encouraged development by the cities, Yearout said. We want to respect the rights of landowners, Yearout said. And, we want to allow carving off where it is suitable, Yearout said. How do you best go about accommodating land divisions in the county but still have some comfort level?, Yearout said. If at all possible, you set it up so the administrator can handle it, Yearout said. Then, if you need a formal hearing, that's okay, Yearout said. It is better to pass some decisions to the governing body, Yearout said. Some cities do not want development, he said. It is partly driven by misunderstanding who is to pay for the cost of developing by a city, Yearout said. If you make it hard to develop in rural areas, and if the cities don't want it, where do you go?, Yearout said. The plan has a lot of good info, but there are holes in the plan that need to be filled in, Yearout said. A good plan is going to really address day to day things, Yearout said. For the most part, you really don't deal with commercial

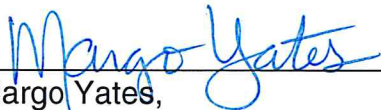
retail very often, he said. Your cell tower regs are urban regs, and in my opinion they don't work very well in rural areas, Yearout said. More technology requires more towers, closer together, he said. Older towers are not designed for the weight load of multiple antennas and support cables, Yearout said. They are targeting travelers and truckers, that is why I'm surprised about the lack of coverage by Florence because they are on major highways, Yearout said. The main thing is splitting off of ag lots, Yearout said. I only found one on Suderman's, where there are multiple lot splits, Holub said. Most are one time lot splits, Holub said. Most are families wanting to build, Strait said. I feel we should not only look at today's problems, but also look to the future, Avery said. It seems like once we go through the cycle, it stops, but what about 20 years from now, or 30 years from now?, Avery said. I saw where most of the jobs in 2015 have not even been invented yet, so I am not sure how far into the future you can see, Holub said. Ediger asked about new housing in the county. You have to have a pretty unique situation to even create a handful of lots, Yearout said. The tough part for a young family is, unless there are jobs, they have to drive some where, Yearout said. The CUP needs to be tweaked, Yearout said. When you grant a CUP, it does not go away when a time period goes by and they do nothing, the development plan goes void, not the CUP, he said. If I have a plat or lot of record, I have five years to develop on that, Yearout said. If no construction or development occurs in five years, it reverts back to its original zone?, Strait asked. No, Yearout said, your right to build expires. What was the last situation that someone wanted to build but couldn't under current guidelines?, Mueller asked. I don't think I've had a permit with three or five acres that I've denied, Strait said. Have people been using the three acres?, Avery asked. They have been more likely to use natural boundaries, with say four and a half acres, Strait said. The only abandoned home site I know of was Brandon Kraus, Strait said. I think if we look at the old plat maps we'd be hard pressed to find any where that there wasn't an old farm site at one time, Strait said. It seems the three to five acres works pretty good, Mueller said. Maybe this works and we should just go with it, Holub said. I have not received complaints, Holub added. We have other issues and this seems to be working, Holub said. Mueller explained to Bina the change started with five acres, and was reduced to three acres. That gave quite a few more opportunities, Mueller said. The 40 acres has been misunderstood, even where I work, Yearout said. When you decide you want to start chopping it up that is when the rules come into play, Yearout said. When there are no controls, this causes problems such as expensive homes built next to manufactured homes, Yearout said. When they want to sell, they can't get what they put into the home because their neighbors devalue the area, Yearout said. Yearout suggested lot sizes that people will take care of. Mueller explained to Bina that in the beginning the five acres had to come out of 40 acres, and members ran into some snags and hard decisions. There are a lot of tracts around Goessel less than 40, Mueller said. We need to decide how to classify, Yearout said. We need to determine if it is an original tract, or when it was split off, before or after regs were put in place in '92, Yearout said. There are some areas that need to be looked at differently, Yearout said. That would be legal?,

Holub asked. Ag I and Ag II, Yearout said. But, then you need to decide if that is really what you want to do, Yearout said. In '92, when zoning was adopted, the landfill was going on and the county had never done this before and a lot of what we did at the time was cover the basics, Yearout said. You are now past the walking stage and you can run if you have to, he said. One size fits all is not necessarily the answer, Yearout said. Holub commented on the continued growth on the edge of the county. What are you going to do differently?, Mueller asked. I don't know, I want to analyze it, Yearout said. You can treat different ag areas differently, Yearout said. As long as we can justify the rationality, Yearout added. We need to get the maps done and establish where we are, Holub said. Is the general consensus of the county commission that they are okay with where we are?, Mueller asked. I can't speak for them, but it seems to be working so why change something that seems to be working, Holub said. So, do we need more work sessions?, Mueller asked. We do need funding in the budget to get the mapping done, Strait said. So, we don't need to meet next month and we meet in May on the 24th, and there is no June meeting, Mueller said. If something comes up, I'll let you know, Strait said. We will send out a notice either way for the April meeting, Mueller said. It won't be a mandatory meeting, because there won't be anything to vote on, Strait said. Mueller asked Holub if he was okay with that and Holub said yes. Mueller thanked Yearout and Holub for coming. Holub said he is encouraged by no recent complaints. Mueller asked if there was anything else, but there was not. The work session ended at 9:48 p.m.

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David Mueller,
Chairman



Margo Yates,
Secretary