

**TO:** Tonya Williams  
Marion County Planning, Zoning & Environmental Health  
Via: trichards@marioncoks.net

**DATE:** April 27, 2011

**RE:** Holub Proposal for private development of cabins  
near the Office at Marion County Lake

**FROM:** Sharon A. Werner, property owner at  
58 Lakeshore Drive, Marion, Kansas

**PURPOSE:** Objection to the "Holub Proposal" with statement of reasons

**EXECUTIVE SUMMARY:**

The site for the Holub Proposal is on property included in both the National and State Register of Historic Places. The Holub proposal is incompatible with the stated policy for both national and state historic properties. In addition, County approval of this proposal amounts to a subsidy of private enterprise on public ground to the detriment of current and future lake residents.

If the Commissioners are entertaining this proposal because it appears to be an avenue to generate revenue for the County, this reliance is at best premature, and at worst, totally misplaced. No feasibility study has been conducted to determine the impact /burden of the proposed project on the lake property and its environs. There is no information available that any anticipated revenue paid to the County will offset the increased burden on lake facilities. The lake roads and facilities have been the focus of numerous previous discussions – with the county wanting to disavow/minimize responsibility. Yet this proposal undoubtedly will cause further deterioration of lake roads, increase burden on water and sewer facilities, docks, etc.; it will increase the noise and traffic levels to which lake residents will be exposed; and finally and most importantly, it will encroach upon and destroy landscape features, lake vegetation, spatial relationships, lake vistas, and the environs of the lake.

**1. The Holub Proposal is antagonistic to the fundamental character and environs of the lake.**

The proposed project destroys the serenity, lake vistas, and spatial relationships which exist at the lake. It will increase the burden on the lake roads, sewer, and water facilities, docks, and related recreational buildings, and the lake itself.

Property owners at the lake pay a higher property tax than other county residents because of the lake environment. However, when the County entertains these types of proposals, the lake residents who do shoulder a higher tax burden are rewarded by the County by allowing even a

greater encroachment and destruction of the very property that serves as a basis for the increased property taxes.

As an owner since 2001, I continue to be reluctant to spend hard earned money to upgrade my real property for fear that tomorrow the County will entertain a project that will further destroy lake vistas and generally encroach upon and destroy the lake environs. If the County would unequivocally embrace the lake as an asset, preserve and protect it, rather than increasing burdens on the lake, I and many others would upgrade our real property. Such upgrades would result in higher taxes to the County, serve as a more stable source of revenue, and would not increase the burdens on the lake which the Holub proposal will do.

## **2. Approval of the Holub Proposal would violate the statutorily stated purposes for property placed on the national and state register of historic places.**

Three hundred and two acres encompassing the lake and surrounding property are on the National Register of Historic Places as well as the State Historic Register.<sup>1</sup> As such, the Holub Proposal is subject to review by the State Historic Preservation Office. The Holub Proposal is subject to the Kansas Historic Preservation Act, K.S.A. 75-2715 through 2725 and amendments thereto. Several of those statutes bear review for this evening's action:

### **A. Historic Preservation is the declared policy of this state:**

**By statute, historic preservation is the declared policy of the state and is mandated to be among the highest priorities of government.<sup>2</sup>**

### **B. The Holub Proposal Is Subject to Review by the SHPO:**

First: "No... political subdivision [which includes the County] shall engage or alter, or cause to be changed or altered, the physical features of historic character or integrity of such property, without the prior written approval of the society [State Historical Society]. ( K.S.A. 75-2714)

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<sup>1</sup> Marion County Lake and Park was listed on the National Register on June 6, 2002, in large part due to the tireless efforts of Dwight and Helen Beckham, revered former residents of Marion County Lake. The Registration Form completed by the Beckhams is available on the SHPO website.

<sup>2</sup> K.S.A. 75-2715 (part of the Act) provides:

"Historic preservation declared policy of state. The legislature finds that the historical, architectural, archeological and cultural heritage of Kansas is an important asset of the state and its preservation and maintenance should be among the highest priority of government. It is therefore declared to be the public policy and in the public interest of the state to engage in a comprehensive program of historic preservation and to foster and promote the conservation and use of historic property for education, inspiration, pleasure and enrichment of the citizens of Kansas taking into consideration land used for agricultural purposes located within the environs of any historic property."

Second: "...any political subdivision [which includes the County] shall not undertake any project which will encroach upon, damage or destroy any historic property included in the national register of historic places or the state register of historic places or the environs of such property until the state historical preservation officer has been given notice, an opportunity to investigate and comment upon the proposed project. (K.S.A. 75-2724 (a))

Third: If the state historical preservation officer determines that the proposed project will encroach upon, damage or destroy any historic property included in the national or state register of historic places or the environs of such property, the project shall not proceed until the governing body of the political subdivision has made a determination, based on a consideration of all relevant factors that there is no feasible and prudent alternative to the proposal and the program includes all possible planning to minimize harm to such historic property result from such use. ( K.S.A. 75-2724 (a) (1))

Fourth: If the project proceeds, any person aggrieved by the determination of the governing body may seek review of such determination in accordance with K.S.A. 60-2101. (K.S.A. 75-2724 (b)).

### **C. The Holub Proposal Appears to Violate the "Standards of Evaluating Effects of Projects on Environs"**

If the proposed project is within the boundaries of a historical designated property or within 1000 of a listed historic property located in the unincorporated portion of a county, the State historical preservation officer uses the "Standards for Evaluating the Effects on the Projects on Environs." (This is available on the SHPO's website.)

The Standards include<sup>3</sup>:

1. The character of a historic property's environs should be retained and preserved. The removal or alteration of distinctive building, structures, landscape features, spatial relationships, etc. that characterize the environs should be avoided.
2. The environs of a property should be used as it has been historically or allow the inclusion of new uses **that require minimal change** to the environs' distinctive materials, features, and spatial relationships.
3. The environs of each property will be recognized as a physical record of its time, place and use. Changes to the environs that have acquired historic significance in their own right should be retained and preserved.

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<sup>3</sup> Within those Standards the word "environs" is defined as follows:

"Environs" means the historic property's associated surroundings and the elements or conditions which serve to characterize a specific place, neighborhood, district or area. Generally the boundary of 'notice' will be recognized as the environs of a listed property or district. In some cases during identification of character -defining features, the environs may be determined to extend beyond the boundary of notice as set forth in K.S.A. 5-2715 -75-2725 as amended."

4. Demolition of character-defining buildings, structures, landscape features, etc in a historic property's environs should be avoided. When the severity of deteriorations requires removal within the environs, compatible reconstruction shall occur.
5. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures shall be undertaken.
6. ***New additions***, exterior alterations, infill construction ***or related new construction should not destroy character-defining features or spatial relations that characterize the environs property.*** The new work shall be compatible with historic materials, character – defining features, size, scale and proportion and massing of the environs
7. Moved historic property that have not retained or acquired historic significance in the environs shall be considered as artifacts without environs.

Without question, the Holub proposal will alter the environs of this historically designated property.

Approval by the County of this proposal can be done if those of you entrusted with a fiduciary duty of public trust (a duty imposed on public officials) choose to (1) violate the stated historical preservation policy of this State and (2) in doing so, violate the duty imposed on public officials - to serve the public with the highest fidelity and undivided loyalty.

### **3. Approval of the Holub Proposal is a government subsidy of private enterprise at the lake to the detriment of property owners at the lake.**

If the Holubs want to pursue such private enterprise as ten cabins for lake visitors, there is currently land available on Airport Road for purchase. Building cabins on private land at that location would alleviate additional burdens on the lake facilities. Visitors to the lake could continue their use of historic property for education, inspiration, pleasure and enrichment.

### **4. Conclusion:**

For all the reasons stated above, I urge this Board to reject the Holub Proposal.

Respectfully Submitted,

Sharon A. Werner  
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