

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

RECORD OF PROCEEDINGS

May 22, 2003

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

Roll Call was answered by Sieger, Mary Avery, Bob Unruh, Glen Unrau, Willis Ensz, and David Mueller. Ervin Ediger and Marquetta Eilerts were absent. Zoning Administrator David Brazil was present.

Sieger asked for corrections to the Record of Proceedings for the April 24, 2003, meeting of the Marion County Planning Commission/Board of Zoning Appeals. Avery made a motion to accept the Record of Proceedings as written and Unruh seconded the motion. In favor: 6; Opposed: 0; Motion carried.

Sieger asked for off agenda items. Brazil has an update on the comprehensive plan. Avery asked if members could discuss their recent trip to the Montezuma wind farm. Sieger asked Unruh if he has had a chance to visit the wind farm, and he said not yet.

Item 4: An application for Alexanderfeld Church/Hope Valley School, requesting a Conditional Use Permit (CUP) for the church, with an addition of a school. This property is located in Liberty Township. This application was published in the April 30, 2003, issues of *The Marion County Record*, *Hillsboro Star Journal* and *Peabody Gazette Bulletin*. Glen Ensz was present to speak about the application. He is the Chairman of the School Board. He explained this school began in 1975 or 1976, but was disbanded in 1986 due to lack of children. They now wish to reopen the school, and also use it occasionally as a family gathering place. The plumbing and heating is all in tact, and has been under a routine maintenance plan. There will be no construction involved, they simply want to begin using it again for what it was built for. Brazil explained the church itself was grand fathered in, and he recommends asking for the okay to expand in the future, if they want. Unruh asked since a CUP by regulation expires if activity ceases for six months, so does that hold true under a grandfather clause? Yes, that is why they need to reapply, Brazil said. It wasn't in operation at the time of zoning, anyway, Sieger said. But, to answer your question, yes it would stop after six months, Brazil said. How long do you see it being in use?, Avery asked. That's a tough projection to make, Ensz said. We'd like to hope for 12 to 18 years, he added. Sieger asked for an estimated number and Ensz said 20 to 30 students. So, they would have to meet regular school curriculum?, Sieger asked. It would be a church school, Ensz said. It's a fairly small acreage, Brazil said, and he showed members the property on an aerial photo. I recommend allowing for room to expand to a greater acreage, Brazil said. But, they don't own a greater acreage, Sieger said. No, they don't, Brazil said. Jonas Giesbrecht privately owned a portion that was used for a playground area. Ray Hiebert is present, and is the Treasurer on the School Board. He explained that the evergreens are the boundary and Giesbrecht owns the ground under the school, but he has given permission to put the school there, but it's

his land. The land would convert back to the original property owner if the school were no longer there, Sieger said. If Giesbrecht says he'll sell us three or five acres that might be a possibility, but we're not to that point, Ensz said. Sieger asked what the total acreage of both tracts would be, and Unruh said less than an acre. The septic system is all in place, Sieger said. What about parking?, Sieger asked. I guess it would just be come and go parking, Sieger said, and Ensz agreed. With the size of the school, traffic is generally not a problem, Ensz said. Sieger asked and Ensz said the dimensions of the school are 70 x 45. Avery asked if there will be two classrooms and Ensz said yes. Unruh asked if there is a gym, and Ensz said the lunchroom serves as our rainy day area. Sieger asked and Ensz said the church membership is about 60, and actual attendance is around 80 or 90. Sieger asked Brazil if there is ample parking and Brazil said yes. If the church grows, parking could be an issue, Brazil added. The only time we would utilize the capacity of parking is if there is a special program, or funeral, Ensz said. Is it just grass around the school?, Willis Ensz asked and Ensz said there is a gravel parking lot. Sieger asked Brazil if there is a wastewater issue, since it has not been used for a while. It's not failing at the moment, but as we use it there is a potential with age, and so I'd like to check it after you use it for six months, Brazil said. Sieger asked and Brazil explained that when you rest the system sometimes you help the system, but it's worth taking a look at. Sieger asked if there was anything else? Sieger asked if anyone from the public wished to speak? Sieger closed the public hearing for this application and opened the floor for discussion.

Sieger reminded members they are acting as the planning commission for this application. Sieger reminded members a CUP is a recommendation from them to the county commission for final approval. Sieger also reminded members that, as always, if anyone has divulged in any ex parte communication with anyone concerning this application, or if anyone has a conflict of interest with this application, to please say so. Sieger asked about Brazil's recommendation for five acres to be approved. Up to five acres allows for more parking, Brazil said. It looks like both the landowner and the church made the application, he added. And reevaluate the septic system in about six months after the school is open, Sieger said. We note in the file to keep all state and federal regulations up to date, Brazil said. It's not our responsibility to make sure they comply with those rules, but it could be a recommendation that they do so, Brazil said. Unruh made a motion to recommend approving a CUP, based on regulation numbers 4, 6, 7 & 10, and also include that the CUP be for up to five acres and would include an option to inspect and review the wastewater system after six months of operation, and recommend that the Church School Board would maintain federal and state regulations. Avery seconded the motion. In favor: 6; Opposed: 0; Motion carried. Brazil explained that backing up state and federal regulations is simply so if they don't, they will risk losing the CUP. Sieger explained this application would go to the county commission for final approval. Unruh asked about children who are currently bussed to Goessel for school, and what will this do to their enrollment? It was either add on to that school, or go this way, Ensz said. Hiebert requested Brazil send a letter when the CUP has final approval and Brazil agreed to do so. Brazil explained he will need either a meets and bounds description of the school and church, or a survey. Where would be the property boundary lines?, Ensz asked and Brazil said yes. From the center of the road to the inside edge of the property?, Ensz asked and Brazil said yes. As you can see the

church and school are all on one tract, so can it be all-together?, Ensz asked and Brazil said yes.

Item 5: An application for Michael and Cindy Ragland, requesting a CUP for a retail sporting goods facility, on property located in Centre South Township. This application was published in the April 30, 2003, issues of *The Marion County Record, Hillsboro Star Journal and Peabody Gazette Bulletin*. Cindy Ragland explained they would like to construct a 40x60 building, basically a barn, to put a sporting goods facility in. We are interested in purchasing Stovall's business and it would be basically what they have now, she explained. We want to build a building and buy their inventory, Michael Ragland said. Sieger asked and Michael said they plan to carry firearms and also take on some fishing gear and maybe bows and arrows, which they (Stovall's) don't have the fishing and archery. Sieger asked and Michael said they would carry handguns, shotguns, and rifles. So, not just all hunting?, Sieger asked and Michael said no. We want it to look more agricultural than commercial, Cindy said. Sieger asked and was told the dogs (for their dog training business) are to the east of the home, and to the west of the home, Cindy said. Sieger asked about regulations for firearms and Cindy referred her to Carl and Juanita Stovall. We have a federal firearms license, as any dealer does, Juanita Stovall said. They don't regulate what we sell, or how we run our business, but an application has to be made and is either approved or not approved, she said. It is a lengthy application and you do everything according to the law, she added. How long have you been open for business?, Sieger asked and Carl Stovall said 35 years. Sieger asked about a waiting period for purchasing a firearm. As long as they pass the background check, there is no waiting, Juanita said. It's with the FBI, Carl added. Sieger asked if they have ever had any accidents, or anything?, and Juanita said no. All the guns have a tie around them, so they can't be loaded in the building, Carl said. Mueller asked and Michael said Tim Summervill is the closest neighbor. Sieger asked if they would have regular hours, or keep it locked until someone knocks at the door? We will have regular hours, probably 9 a.m. to 5 p.m., Tuesday thru Saturday, Michael said. Sieger asked about parking, and Cindy asked Brazil to show members a copy of a drawing they had made. Unruh asked if they are including in their business plan any plans for a shooting range, or anything of that nature?, and Michael said no. Sieger asked if there was any problem with not permitting anyone to load a gun on the property?, and Michael said no. Will they require the Sheriff's Department, or some agency in the county, to work closely with you for security, or is that an issue?, Unruh asked. That's not really an issue, Michael said. Stovall's have iron bars on their business, he added. Would you do that, too?, Sieger asked. Yes, we will patent our business exactly like theirs, Michael said. Avery asked about demonstrating firearms and Michael said they would watch a tape or advise them without demonstrating. How extensive would your inventory be?, Avery asked. Michael said he should refer to Stovall's, but he would think 15 to 20 handguns, 15 to 20 shotguns and 15 to 20 rifles, so 60 to 75 guns at any one time. Sieger asked Stovall's if they have had any robberies or any problems, and Juanita said no. Willis Ensz asked how the neighbors feel. Tim Summervill is a quarter mile down the road, and has lived there five years. He recently purchased ground near Ragland's, and their proposal seems close to his property line, he told members. Summervill is also concerned about traffic and is concerned about any plans for a gun range. Mueller asked Ragland's to

show members on an aerial map where the property line is. I know they regulate how close you can go to a property line, Cindy said. But, it would be near Tim's property?, Sieger asked. Yes, because that's the only flat area, Cindy said. Mueller continued to ask questions about the aerial photo and boundaries. For people out of the area, we would have maps and show the entrance from U.S. 77, Cindy said. How many customers do you estimate on an average, per week?, Sieger asked. It varies with the season, Carl said. Maybe 10 visitors a day, maybe more, maybe less, Carl said. It's a perfect location as far as both neighbors as it's right off the highway and won't bother anyone, Carl said. Randy Mills spoke from the public, saying he is not concerned with the potential business being there, but encouraged members to put in the plan that they can't have a range and they can't use firearms out there. We often have put a whole list of recommendations in, but it goes to the county commission for final approval, Sieger explained. I'm also concerned, like Tim, if high powered rifles are used, Mills added. We're glad to put those regulations in, Michael said. They can be stipulations as part of our recommendation that they have to be in compliance with these, in order for the CUP to still be in place, Sieger said. You are only proposing and expecting to have a retail facility, including in the future?, Sieger asked. Yes, and we'll write that in there, Michael said. One problem is the majority of farmers are going to fire at snakes, or skunks, Juanita said. Where does the rights of the individual come into play?, Unruh asked. These folks might be unique if they have a firearms business, but for your own personal enjoyment if they choose to deer hunt, or whatever, on their own property we can't limit that, Unruh said. I understand what you're saying, but they shouldn't be limited in their own enjoyment, Unruh said. If the CUP were issued it probably would not be issued for the entire acreage, Unruh said. I agree, I wouldn't want to be completely limited on my land, Mills said. If they decide to put a sporting place in, they'll have to come back to the planning commission, Carl said. We have a stack of letters and signatures in support of our plans, Cindy said. John Hobson, from Newton, was present to speak. He said he has been in the sporting goods retail business for years. They want to put up a building and sell stuff, and as far retail business in a small community, I'm all for it, Hobson said. I'd rather drive to Marion to shop where I'll get better service, and my money will fuel the economy here, and I usually stop at the little dairy queen and we spend time and money when we come and anything you can do to bring additional dollars to a small town is great, Hobson said. Economic development is a factor, but we only look at land use, Sieger said. I agree with what you say and I'm not against this, but land is what the committee is all about and that's not a factor that makes a decision for us, she added. I just want you to realize, I'm not against this, Mills said. I appreciate these guys coming and I want them to know that if I was in Tim's place I'd want to know what's going on, too, Michael said. Sieger asked if there was anything further. Sieger closed the public hearing for this application and opened the floor for discussion.

Mueller asked Brazil to comment about establishing a retail business in that particular location. Brazil said he considers Stovall's business as an asset to the county, and the grand fathered CUP cannot be transferred from one location, to another. The location off 77 is convenient, but I feel this type of business with firearms would be better served within the community, Brazil said. Emergency service response time would be less and for security reasons, Brazil said. I like to hunt and I like to fish and I like the availability

of those products, but I feel it's better served in the city, Brazil said. Is that the only reason you're not recommending it?, Unruh asked and Brazil said yes. Would you say this business meets all the other regulatory issues?, Unruh asked. It could, Brazil said. Look at all the available locations for businesses like this within the cities, Sieger said. I checked the City of Marion's zoning and it looks to me by right you could have a business like this and not need a special permit, Brazil said. Would this at all be a consideration?, Sieger asked. We moved from the city, and I home school our kids in fourth thru sixth grade, Cindy said. I am committed to home schooling, she added. We'd like the security of being able to look out and see our business, she said. Brazil asked if he could make copies of Ragland's support letters for his file. Most of the letters are a form that you had people sign, and some are out of county, so whether we would consider out of county support, or not....., Sieger said. With a CUP there are 11 factors to consider, and in some matters some are so vague or could be interpreted in more than one way that on one sense I kind of struggle with approving this when we hire professional people and we want to consider his views, but being a business person myself I admire people who are willing to put their own capital up, Unruh said. I think what I've heard from the applicants is they would put great effort into trying to be in compliance, but we do have a security issue which could be better managed if it was closer to law enforcement in town, he said. But, the history of the business shows no problems so why is it so unreasonable to give this business another opportunity?, he said. Would this be an absolute new business that we have not experienced in our society, that would be one thing, he said. But, I would be inclined to allow this business to proceed forward, Unruh said. I've been trying to think of this strictly as a retail business, such as the gardening application recently, Mueller said. If this was a shooting range, or anything, we'd definitely have additional issues, and concerns of neighbors would definitely need to be addressed, he said. But, with the experience of the past I think they should be given an opportunity, Mueller said. It would appear they are thinking of adding product lines, but the potential could increase the traffic flow over what the existing business has, so that probably is something we should not completely ignore, Unruh said. If the business continues and there is more traffic, it could be a concern, but I think it's a pretty good gravel road, Sieger said. The more I think of this, the more I think of new dreams, Unruh said. They probably would expand beyond this and it could really draw a lot of people into it and I'd like it stated not to have a gun range and that kind of thing, Unruh said. Firearms at some point may take a backseat, but you just don't know, Unruh said. The product line would only be controlled so far as it's a sporting goods product line, Unruh said. I don't know that I want to get into the business of regulating product lines, he said. It could include boats, Sieger said. Just as an example, boats could be allowed as sporting goods, Sieger said. You currently have a CUP for your dog business, so is this compatible with your current business?, Unruh asked. I don't see how it would hurt anything, Michael said. Could there ever be a time when you could have a risk of security due to the dogs?, Unruh asked. We will put a fence up to prevent that, Michael said. What kind of dogs do you have?, Unruh asked. Labrador Retrievers, Michael said. I have to have a totally separate insurance policy on the kennel business, Cindy explained. Three of the signatures are members of the Marion County Sheriff's Department?, Avery wondered if they signed as individuals or as Sheriff Department representatives? All the statutes require is that you consider the 11 factors, Brazil said. Currently there is a CUP for their

land?, Avery asked. Your CUP's are numerated so you have different types and so you'd be looking at a separate one in a different area, Brazil said. If anything, I think the two are related to each other and kind of support each other, he added. If we were talking about another dog kennel we'd need reasons to support our decision, but this is a different ball game, Brazil said. I have trouble relating firearms with agriculture, he said. I feel like this particular retail operation would be better served in a city, rather than in the county, he said. Unruh asked Brazil why and Brazil said for fire, ambulance and police. As far as the owner's expansion and use, security is definitely an issue, Brazil said. This retail operation vs. a retail greenhouse is more suited to be in town rather than in an agricultural setting, Brazil said. Their application says firearms sales and service, so is service an issue?, Unruh asked. If we approve the firearm word and not sporting goods?, Avery asked. Then you would limit them to that, Brazil explained. If a business manager decides to address or change a product line, are we going to regulate that?, Unruh asked. And how much money are we willing to devote to this some day?, Unruh added. I think sporting goods better serves this application, Brazil said. We need to look at the terminology using retail-sporting goods, Sieger said. Unruh asked and Brazil showed him on the diagram where the parking would be and where the property line is. To me the primary concern here is security and response time, Avery said. Did you inquire with these services what the response would be?, Avery asked. I did not, but I would be willing to do that if you so desire, Brazil said. When it's related to agriculture, I have a much easier time approving these, Brazil said. Our comprehensive plan tries to funnel retail business toward the cities, he said. You have to consider more things with guns, rather than plants, Sieger said. I think plants are more related to agriculture than firearms and I think firearms are more related to agriculture than antiques, Brazil said. I didn't hear security was a concern with the neighbors, Avery said. I did hear traffic and other activity was a concern, she added. I think we should come prepared, Unruh said. I struggle with the concept of deferring an issue just because we want to mull it over, he said. No, but additional information is a reason, Sieger said and Unruh agreed. If I would have had additional information why you made the recommendation when I received my packet at home, then I could have thought about it in that sense, and that would have helped me, Avery told Brazil. Sieger agreed, I wondered what your thoughts were, she said. On the CUP it would be on a small acreage?, Mueller asked. It would be within a certain area, Sieger said. If they want to expand the business?, Avery asked. Then they would have to come back, Sieger said. If a motion was to be offered for a CUP on five acres in the very southwest corner of the property, would that be the proposed five acres?, Unruh asked. And your dog business does not sit on that site?, Unruh asked. We do some training there, but we could move it, Michael said. I want to be fairly certain that we get it right where the acreage is and that it is sufficient acreage, Unruh said. Part of the reason why we limit the acreage is how it would be used and the remaining acreage is their personal property for personal use and I want to be sure to address that, Mueller said. Couldn't you say limited to retail?, Unrau asked. What you're looking at is use of interpretation, Unrau said. You don't want to have this about use at some point, he added. I think we understand that's not their intent, Sieger said. Mueller made a motion to recommend approving the application for Michael and Cindy Ragland for a CUP for a retail sporting goods on not more than five acres in the southwest corner of their property

at 22-20-4, and no firearm use on this five acres and the other condition is that all federal and state permits be met and complied with. Unruh seconded the motion.

In favor: 6; Opposed: 0; Motion carried. Mueller added that he is concerned about not following the recommendation of the director, but feels the experience has been proven in this situation and feels a CUP would be applicable. Looking at a past record with no problems and it's on a gravel road out in the county and has operated for 30 some years, their track record shows this to be a positive venture that could work, Sieger said. I understand the circumstances of this, but it does seem to me the cities need it, too, she added. Sieger explained it is the same time frame for this application as they heard for the previous applicants. Brazil will copy the letters for his file. Michael asked if the county commission makes the final decision, and Sieger explained yes, ours was a recommendation only in this case. Brazil explained the time line, and that by the second Friday in the month he will need a survey or a meets and bounds description. Brazil will work with them to get a building permit and wastewater, and all of that, he told Ragland's.

Off agenda items: Brazil reported he met with the county commission and the consultant this morning and they should have an updated version for us in a couple of weeks, he told members. You should be able to consider changes at your July meeting, he said. Sieger asked if Brazil could make a list of the changes, so members don't have to go through all of it and find the changes. You have the option of staying with your original recommendation or accepting the changes, then it will go back to the county commission and they can adopt either/or, Brazil told members. No more public hearings?, Sieger asked. At our regular meeting, and it's not something we have to do, it's something we want to do, Brazil said. As soon as the county commission has reviewed the changes, I'll send you a copy, Brazil told members. Unruh suggested sending it through e-mail. Unruh also suggested a power point presentation for each meeting. Avery thanked everyone who put together the tour trip. When I do not recommend an application for approval, would you like a couple of factors why?, Brazil asked and members said yes. Would you rather have approximate square feet, or a footprint of the building?, Brazil asked and members said a footprint. The next meeting is July 24. Unruh made a motion to adjourn and Ensz seconded the motion. In favor: 6; Opposed: 0; Motion carried and the meeting adjourned at 9:35 p.m.

#### MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS



Eileen Sieger,  
Chairman