

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

RECORD OF PROCEEDINGS

May 25, 2000

Chairman Eileen Sieger called the meeting to order at 7:07 p.m.

Roll Call was answered by Sieger, Marquette Eilerts, Terry Eberhard, Glen Unrau, Bob Unruh, and Dean Fincham. Zoning Administrator David Brazil was also present. Eldon Pankratz was absent. Herb Bartel and Elora Robinson arrived late. Sieger determined there was a quorum. Sieger said Angela requests that members save the envelopes she mails monthly packets in, so she may reuse them. Sieger said every effort will be made to move along with this meeting, as there is a long agenda.

Sieger asked for corrections to the minutes of the April 27, 2000, meeting of the Marion County Planning Commission/Board of Zoning Appeals. There were no corrections. Unruh made a motion to approve the minutes as written and Fincham seconded the motion. In favor: 6; Opposed: 0; Motion carried.

Item 4: Continuation of an application for Amelia Vinduska requesting a rezone from agricultural to rural residential and a variance from 10 acres to five acres. Members are acting as the Marion County Planning Commission. Sieger said this application was published in the April 5 issue of the Hillsboro Star Journal. Amelia Vinduska and her son, Ken Vinduska, were present to speak about the application. Amelia explained her grandson wishes to buy some of her land and build a home on five acres. This land is adjacent to Pilsen, to the north. Sieger asked how many total acres Amelia owns. Ken Vinduska said approximately 72 acres. Amelia said she owns most of the quarter. Sieger asked about the sewer system for the property. Brazil said the public sewer runs right by there and could easily be hooked-up to. That services Pilsen?, Sieger asked. Yes, Brazil said. Rural water is coming, so probably could sign up now, Ken Vinduska said. Sieger asked if there is well water at this point, and was told yes. Eberhard asked if this application could qualify as Suburban Residential (SR), like another similar application did. Brazil said yes. Sieger asked if it is possible to suggest SR? Yes, Brazil said. Sieger explained that SR is a minimum of one acre, but can have

more. She said there is a possibility of considering SR, since the land is adjacent to Pilsen. She added that by requesting SR a variance would not be needed. The end result would be the same?, Ken Vinduska asked. Yes, said Sieger. Eberhard asked if they would have to re-apply. He said, if so, members could waive the fee. Brazil did not think re-publishing was necessary. Sieger questioned the access road. Sieger asked if there was anything else. Sieger asked if anyone from the public wished to speak. Bartel arrived at this time. It was 7:20 p.m. Sieger asked again if there was anything else. Sieger asked Amelia where she lives, now? Right on this piece of land, too, Amelia said. Sieger closed the public hearing for this application.

Members decided to continue with discussion on this application before proceeding. It's a more restricted district, is the problem, Bartel said. So we should re-publish?, Eberhard asked. Yes, Bartel said. Sieger explained that building permits will be required. Eberhard made a motion to continue this application to the next meeting for SR and waive the fee for the application to be re-published. Sieger explained this will be continued to July, as members do not meet in June. She added it seems there is no hurry, so this should be fine. Fincham seconded the motion. In favor: 7; Opposed: 0; Motion carried.

Item 5: An application for K.C. "Buck" Alley, for a variance of set back requirements at the county lake. Members are now acting as the Board of Zoning Appeals. Sieger said this application was published in the May 3, 2000, issue of the Hillsboro Star Journal. Buck and Gladys Alley were present to speak about this application. Buck explained his wife, Gladys, has spent time in Marion since she was 10 years old. Buck said at 3:00 p.m. today, we found out we have the cart before the horse. He said he now knows at the time he filed for a variance, he should have also filed for zoning. He didn't know this until today. He understands he can't get a permit until the zoning is okay. He asked members if they can decide on the variance, so he can proceed with plans, and get the zoning in place down the road? Alley has tract two and three, and wishes to build on two. The whole piece was zoned SR and surveyed-off and two pieces sold, so all tracts are non-compliant, Brazil said. Brazil added that tract one has a house on it. There is a ravine between, so you can't make the tracts bigger, Alley said. Sieger said R1, single family residential classification, has a minimum lot of one-half acre. It's pretty

close to that, if two and three were together, Brazil said. We do not intend to build on three, Alley said. It's full of trees, Gladys Alley said. Is the variance unreasonable?, Alley asked. Our property line is 12 feet plus at the south end, and 20 feet at the north end from Lakeshore Drive, Alley said. Actually it would be about 32 feet from Lakeshore Drive and about 26 and a half feet from Rock Road, Alley said. Carol Coleman's house is 14 feet six inches from Rock Road, Alley said. Our property only joins other property on the east, Alley said. Unfortunately, we will have to take out about five trees, he said. We hate it, but don't know how to build a house without it, he added. Alley added that he plans to do some drainage work, also, if it is okay with the county. There is a high line that runs at the back, between the lots, which will not allow you to go back, and there is a fire hydrant to work around, Alley said. Sieger questioned the water line. Is it clear back from the house?, Sieger asked and Alley said no. It's on lot three, back to the east, Alley said. The main water line follows Lakeshore Drive, Fincham said. Will the frontage of the home be Lakeshore Drive?, Sieger asked and Alley said yes. Sieger asked Alley if they would consider putting the two properties together and going to R1. That would be wonderful, Alley said. Sieger asked what members wished to do. Again, we'd publish a different way, Sieger said. Bartel agreed there is a need to re-publish. We're not going to run over here to get a permit, but we'd like to have a feel, Alley said. It's in an area of development, Unruh said. Sieger asked if anyone from the public wished to speak about this application. Blanche Cowan, who lives at the county lake, said it is a pretty spot where Alley's plan to build and she would be in favor of it. Sieger said she received a call from Carol Coleman supporting this request. Sieger said real early development at the lake did not follow set backs. Coleman has no problem with a variance, just be sure to check where the water line is. Eberhard made a motion to continue this application to the next meeting for proper notice to be published and waive the fee for doing so. Eilerts seconded the motion. In favor: 7; Opposed: 0; Motion carried. This application will be re-published as R1. Unruh announced he will not be able to attend the July meeting.

Item 6: An Application for the Elmer Wiens Estate, requesting a rezone from agricultural to rural residential, with a variance of lot requirements. Members are acting as the Marion County Planning Commission. This property is located in Liberty

Township. This application was published in the May 3, 2000, issue of the Hillsboro Star Journal. Pat Gilliland, Elmer Wiens' daughter was present to speak about this application. She said her dad died in November and the family is trying to divide up his estate. She said 60 acres does not divide into two 40's. Plans are for Pat to receive the east half, about 27 acres, and her sister Mary Flaming is to receive the west half, about 33 acres. There are already two houses on the land. Eberhard asked Gilliland if the two houses are on the property she is to receive? Yes, she said. You currently live in Topeka?, Sieger asked Gilliland. Yes, she said. When asked what her plans are for the land, Gilliland said she is not sure. We are in the area all the time, as we have family in this area, she said. This could be kind of a home base for us, while we are down here, she added. Are there more buildings on the property?, Sieger asked. Yes, lots, Gilliland said. Sieger asked and was told there is well water and a septic system, and a gravel road runs by the property. Sieger asked if anyone from the public wished to speak about this application. Dave Krause, who owns property to the south of this land, asked if rural residential is granted, is this land automatically available for division to smaller lots? Sieger said if it is changed to rural residential, it could have several houses on it. Eilerts asked if it would change the density? There are already several homes in the area, Brazil said. But they are not rural residential re-zoned? Right?, Sieger asked. Brazil said, no they are not. Eberhard asked if the request is for the whole 60 to be rezoned? Gilliland said her sister wishes to sell her part as one property. So the request is only for your property?, Sieger asked. No, the whole thing, Gilliland said. By splitting the 60 acres, neither one would comply to the 40 acre requirement, Eberhard said. They could divide off to six different 10 acre tracts, if this is approved for 60 acres to rural residential, Eberhard said. Sieger asked if anyone else wished to speak from the public. Sieger entered a letter into the record from Hildred Wiebe, by Clark Wiebe, POA. There were several other applications in this area that set precedent, Bartel said. He reminded members of the Giesbrecht and Delk applications. Three applications, in addition to this one, have had letters written on them, Bartel said. So, the precedent in this area is to not make it a 10 acre tract, Bartel said. Sieger explained that if rural residential is recommended, there could be 10 acre tracts. Gilliland asked if there is any way around this. Every parcel that is the result of settling an

estate, is not a building site and however you divide it doesn't make it a building site, Bartel said. Sieger asked if there were any other questions. Krause questioned the 40 acre minimum for agriculture. Less is not eligible to receive a residential structure, Bartel explained. Sieger asked if there was anything further. Sieger closed the public hearing for this application.

Sieger asked members if they wished to address this application at this time. Yes, Eberhard said. Eilerts questioned if the property could be split 20/40? Unruh asked Gilliland if they are getting ready to have an auction? No, they had one a while back, Gilliland said. The property needs to be cleaned up and improved, Unruh said. Gilliland said they plan to sell items and clean up the property. Unruh asked if the septic is in compliance? I have not had the opportunity to inspect it, Brazil said. If it becomes rural residential, it may become more attractive over time, Unruh said. Eilerts asked Gilliland if splitting the property 40/20 would be something they would consider? Possibly, Gilliland said. It was mentioned that there were others in the area that have come before us, Sieger reminded members. Regardless of how they split it, they can remodel a house without changing zoning, Bartel said. They can fix a place up without changing zoning, Bartel added. Eberhard asked Gilliland if her sister wishes to sell, and was told yes. Our issue is not to help a property settlement, Sieger reminded members. It is a pain to rent those residences out, Eberhard said. You divide off property in the country and people move trash in and then you have a dump, Eberhard said. It's not like somebody's going to put a \$150,000 home in, Eberhard said. Bartel made a motion not to recommend this application because there are still significant agricultural operations in this area, the zoning map is predominately agriculture, and this application is not consistent with previous recommendations. Eberhard seconded the motion. In favor: 6; Opposed: 1; Motion carried.

Item 7: An application for Darcy Volkman requesting a rezone from agricultural to rural residential, which was published May 3, 2000, in the Hillsboro Star Journal. Members continue acting as the Marion County Planning Commission. This property is in Moore Township, west of Durham! Deloris Dalke, POA for Volkman, was present to speak about this application. Dalke explained that Jessica Bowers, who was also present, wishes to buy this property from Volkman. Dalke further explained that Volkman bought this

property from Schulz, involving 2.35 acres, and at the time Volkman did not understand the zoning requirements. Dalke said Volkman is now in a financial situation where he needs to sell this property. Dalke said Schulz will sell another eight acres, so it can be a 10 acre tract. Sieger asked how many buildings are on the property? A chicken barn, a machine shed and the house plus a couple more, Dalke said. Unruh asked if the property is on rural water, and Dalke said yes. Dalke said it has a septic system. Brazil said the septic has an open line and needs to be updated. Sieger asked the approximate age of the home? 1920's I would think, Dalke said. The buildings are kind of located on top of a hill, Dalke said. We'd like to plant an orchard and have a garden, Bowers said. Sieger asked if the house is in pretty good shape? It's structurally sound and pretty square, Brazil said. The kitchen is in pretty nice shape and the bathroom has been re-done, Dalke said. It does need paint, Dalke added. Anything else?, Sieger asked. Unruh questioned if he has a conflict of interest. He said he is very familiar with this property. There is no problem just being familiar with a property, Sieger told Unruh. Sieger closed the public hearing for this application.

Members continued with discussion for this application. The zoning map shows nothing in the area but all ag land. Eilerts asked Brazil if there is anything that does not meet criteria? Brazil said the septic needs upgrading. Roads are fairly good. This is a non-compliant property that we are trying to adjust and make compliant, which sold off in '97, Brazil said. This application is consistent with our other zoning changes, Bartel said. I don't have any problem with it except having to comply with the sanitary code, Bartel added. All buildings are well within the 10 acres?, Sieger asked. Yes, Brazil said. Unruh made a motion to recommend approving a rezone based on the survey of 10 acres, with all present sewer problems being corrected, from agricultural to rural residential with easement intact. Fincham seconded the motion. In favor: 6; Opposed: 1; Motion carried. Sieger explained this recommendation probably won't go for a couple of weeks to the county commission. Brazil said on the second Monday of next month. Sieger questioned if the septic must be compliant before this goes to the county commission? Brazil said it is okay to work with them afterward.

Item 8: An application for Gale and Susan Cooper and David and Nina Carr for a Conditional Use Permit (CUP) for a hunting and

fishing lodge near Marion Reservoir. Members continue acting as the Marion County Planning Commission. This application was published in the May 3, 2000, issue of the Hillsboro Star Journal. Sieger reminded members these applicants came before them previously to discuss possible plans. All four applicants are present to speak. Gale Cooper said he has been in contact with Brazil, especially about working a lagoon into the area, which has been okayed by the State of Kansas and the Corps of Engineers. Brazil has viewed the property and location of where the lagoon would be, Gale Cooper said. We can put in a dual cell system, or possibly a triangular lagoon, which would give them more room, Brazil said. With a small overflow unit behind it, Gale Cooper said. The lodge building will be a wood structure with a metal exterior. Eight foot walls. It would not block any highway vision. There will be a six foot porch along the side. A total of 10 rooms. A small commons area. People have expressed a desire to have family reunions at this facility. We would probably have some kind of recreation such as a pool table, Gale Cooper said. He showed members a sketch of proposed building plans. Sieger asked and was told this involves 3.3 total acres. They possibly may build an enclosed boat storage unit. There will be no outside storage, which would not look too good, Gale Cooper said. Trees will be planted. Boat storage will be for people staying there, so not to take anything away from the bait shop, Nina Carr said. We would probably rent it out in the winter months, Gale Cooper said. With both the Corps and State of Kansas essentially allowing us to go up to their property, there should not be any problem, Gale Cooper said. Susan Cooper asked what the concerns of the commission are. There will be no possibility of any overflow or contamination going into the reservoir?, Sieger asked. That's why we're looking at a dual cell, so they have overflow, Brazil said. There is a potential for a variance of gallons used during the day, Brazil said. Would heavy rainfall cause problems?, Eilerts asked. It's designed to handle that, Brazil said. First one gets full, and it just automatically flows over, Brazil explained. Our other concern, too, besides the success of our business, is that it be an attractive, comfortable, economic setting, Susan Cooper said. Also, we want to be open year-round and think we can do this with the number of activities that go on around here year-round, Susan Cooper said. Sieger asked if there will be kitchenettes in the units. Yes, at least half, for sure, Gale Cooper said. Sieger questioned the structure and was told a metal roof and siding. Single story

eight foot walls, six inches thick. Each unit will open to the outside?, Sieger asked and was told yes. Sieger asked if they will maintain certain office hours? We'll start off for sure with someone there all the time, Gale Cooper said. We live right across the road, and I'm cutting my hours back, and we can have the phone forwarded to our home, Nina Carr said. We have had a lot of interest in family reunions, Nina Carr said. This facility will make it more practical for hunting and fishing in the area, Susan Cooper said. Dog kennels will be placed separate from the lodge, for hunters use. We hope to offer guide service, Gale Cooper said. What is your intent for signs?, Bartel asked. Probably just a sign recognizing what our business is and if there is a vacancy, or not, Gale Cooper said. We will follow the KDOT corridor, Susan Cooper said, including highway visibility and regulations. We'll depend most on word of mouth and advertising at Sport, Boat and Travel Shows, Gale Cooper said. We intend to comply with Brazil's concerns, as well as KDOT, Susan Cooper said. Sieger asked if anyone from the public wished to speak about this application. Gale has been in conversation with the owners of the Canada Bait Shop and they realize this will compliment their business and not intrude on their business, Susan Cooper said. Will this apply to this particular structure, or to the type of business?, Susan Cooper asked. It will be specifically to the kind of facility, Bartel said. So, if we want to expand, we would need to come back?, Susan Cooper asked. As long as it's on the site and part of the operation, Bartel said. So, anything above and beyond needs to come back?, Susan Cooper asked and was told yes. So, if you're talking about renting boat storage out for a year at a time, then that's not what we're talking about, Bartel said. We're doing it in phases, Susan Cooper said. I want to see two things in the file, Bartel said. I want to see what the building is going to look like in the file, he said. Also, I'd like to have you submit what you're going to do on the signs, so we can look back and see what's in the file, Bartel said. So we all know what we agreed on, he added. A drawing of the sign must be submitted for the file, it was agreed. What you are describing and what we perceive as what you are describing could be two different things, Sieger explained. Sieger closed the public hearing for this application.

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commercial business of this nature, when we already have commercial businesses in the area such as the bait shop, makes me wonder if we are changing the nature of the area?, Unruh asked. There won't take too much more development in the area for there to be a need for an improvement district, Brazil said. If we want a picture of the building and signs in the file, do we continue this application?, Eilerts asked. You never get to expand when you make a bad step in the beginning, Bartel said. I just want it in the file so everybody's good intentions are part of the file for May of 2000, Bartel said. It could be contingent upon the sign description and a good drawing, Sieger said. Eberhard asked if an architect is going to draw up plans? Gale Cooper said the lodge building will be two colors, such as a green roof and a beige building. It'll be a very attractive building, Gale Cooper said. We're not planning construction until fall, Susan Cooper said. Eberhard made a motion to approve this application for a hunting and fishing lodge as described by the applicants with the stipulation that a description of the structure and sign is to be included in the file. Fincham seconded the motion. In favor: 7; Opposed: 0; Motion carried.

Members took a break. Robinson arrived at this time.

Item 9: An application for Kevan Hein requesting a rezone from agricultural to rural residential, which was published in the May 3, 2000, issue of the Hillsboro Star Journal. Members continue acting as the Marion County Planning Commission. Kevan and Vicki Hein were present to speak about this application. Kevan Hein said this property has been in his family for a lot of years. His brother recently purchased a quarter. So you already have possession of this property?, Sieger asked and Hein said yes. Sieger asked and was told there is a house, barn, granary and cattle shed on the property. Sieger asked if access is to the north, and Hein said yes. Eberhard asked about rural water, and Hein said yes, as of last week. Eberhard asked about the sewer and Brazil said we are looking at a waste water lagoon for the property. Two miles south of this property is Scully land, Brazil said. One mile south is the Lincolnville/Durham paved road, Bartel said. Is this the Scully land we acted on?, Sieger asked. No, Bartel said. Is the rest of the quarter in pasture or crop?, Sieger asked. Yes, Kevan Hein said. Who is currently farming this?, Sieger asked. My brother is, Kevan Hein said. Sieger asked if anyone from the public wished to speak about this application.

I was a paid public servant when the quarter was sold and Heins' approached me as to whether they needed to rezone to remodel the house, Bartel said. Are you currently living in the home?, Sieger asked. No, no one currently lives there, Kevan Hein said. Sieger asked if there was anything else. Sieger closed the public hearing for this application.

Sieger opened the floor for discussion. This is totally a family link with an ag operation and another member wanting to live on the farm site that is not farming, and I have no problem with it, Bartel said. Eilerts made a motion to recommend approval to rezone from agricultural to rural residential pt. NE1/4 23-18-4, which meets criteria of zoning regulations, subject to compliance of waste water lagoon, as it is consistent with some of the other actions with existing farmsteads. Eberhard seconded the motion. In favor: 8; Opposed: 0; Motion carried.

Item 10: An application for Woodrow and Laura Crawshaw for a variance from set back requirements at the county lake. Members are now acting as the Board of Zoning Appeals. This application was published in the May 3, 2000, issue of the Hillsboro Star Journal. Woody and Laura Crawshaw are present to speak about the application. Woody Crawshaw showed members a sketch. He said they bought the property in July of 1997, traded in the single wide trailer which was currently on the property, and set up a double wide, instead. He said in October of '97 they had a survey done and the property line was actually five feet north of where they thought it was, so the home encroached about a foot and a half. He said they went to court over the matter. He said they found out in April that they need a variance on the side yard and front yard set backs. He said he has three possible solutions to this problem: 1. Erect a basement in front of the house and move the house on top of it; 2. Put a foundation at the same location the house is now and move the house on it; 3. Move the house just until it clears the line, maybe six to eight feet. We prefer to put it on a foundation, if we can, Woody Crawshaw said. Tonight ends the 90 days the court allows us to move it, he said. He said Robert and Gloria Martin brought suit against them, and they are present tonight. Skyline in Halstead built the home, he said. He showed members a sketch of the proposed foundation. Set backs requirements are the same, whether there is a basement, or not, Bartel said. It turned out to be a lot pin, rather than a boundary pin, Woody Crawshaw explained about how the mistake

happened. Sieger asked how they got the home in there? Woody Crawshaw said he had the head guy out three times before bringing the home out and he assured me it would not be on either property, because I didn't have permission from either one. Sieger asked if the home is hooked up to water and sewer? Water, sewer, gas, the whole bit, Woody Crawshaw said. If we put in a basement, there would be a retaining wall, he explained. What other buildings are on your property, besides the house?, Sieger asked. None. Robert and Gloria Martin gave dimensions of the area. So, any movement of this manufactured home would put them from within two feet of my property and two feet of my neighbor's, Robert Martin said. The back would be within one foot of my property and this is going to require quite a variance from your existing regulations, he said. Since October '97 I talked to him about the drainage from the back of his home onto my property, Robert Martin said. I talked to him several times about drainage and it still is draining on our property and that would be continued probably, if the home is moved, Robert Martin said. I would say this would have to be surveyed to determine exactly, he said. When the home was positioned it tore up our property, Robert Martin said. They removed railroad ties, tore the yard up, and no compensation, he said. Jan and Dick Vogel were also present to speak. They said there was damage to their yard, also, when the home was placed. They said Crawshaw's did make an attempt to correct the problem. We have a gravel parking area we purchased, with railroad ties, where we park our boat, Jan Vogel said. The railroad ties were disturbed, and a tree was cut down and the mess was left for us to clean up, she said. We offered them an out, she said. We offered to sell a piece of our property at the back of our lot, she said. Crawshaw's thought the price was too high, so we offered for them to get it surveyed, she said. If you change the variance, it will block our view to the lake, which is why we bought this property, so we oppose the request for a variance, Jan Vogel said. Gloria Martin said if the home is moved forward our view would also be impaired of the lake. By obstructing the view, if we should ever decide to sell, I'm sure the value of the property would be lower, she said. Robert Martin said he ran into a rock shelf and said he is concerned about a foundation and basement being constructed because that area is close to his deck. Sieger asked if there is a different in the set back if the home is moved forward. How much would be gained?, Sieger asked. We're only over on the one back corner, Woody Crawshaw said. Currently requirements are 10

foot set backs, he said. Our old mobile home did not meet set backs, he said. When we moved the new home in, I was told it would be grandfathered-in, but then the lines changed, he said. Woody Crawshaw said Bartel told him it was okay. I was told it was the same size as the old trailer, Bartel said. Was the old trailer over the property line?, Bartel asked and was told yes. Mr. Vogel stepped off the line and I don't know what he saw, but I didn't see that it would infringe his view, Woody Crawshaw said. Eberhard suggested turning the home sideways. There are no windows in either end of our home, so we would not see the lake, Woody Crawshaw said. If we move it just enough to clear, we won't destroy any view, Woody Crawshaw said. Eberhard asked about set backs. If we move it just enough to clear, there would be nothing on the back and one to two feet on the front, Woody Crawshaw said. Robert Martin questioned county set back requirements and was told: front 30'; side 10'; and back 20'. Blanche Cowan said she does not agree that it will block the view of Crawshaw's neighbors. We've lived there 30 years, she said. If you have a survey done, I bet we all will have to move, she said. But we all get along, she added. When something new comes in, I think that's what we're looking at, Sieger told Cowan. Unruh questioned what jurisdiction and authority the lake improvement district has. Just sewer and water, Fincham and Bartel said. That has nothing to do with property lines, Fincham said. The next thing it needs to be is drainage, Bartel said. View has never been a factor that we can base a set back on, Bartel said. Charles Cowan said a foundation, or a basement under this house is not impossible. It's not going to hurt anyone's property and it's not a problem to do this, he said. Eilerts asked what the neighbors would like to see done. Jan Vogel said they are not as concerned about the side property line as much as the front. She reminded everyone that Dick Vogel gave Crawshaw's an option to buy some land. Bob Martin, Robert and Gloria Martin's son, said Crawshaw's were given an option in the beginning when his dad was going to give them the property on the over-hang free of charge, if he'd just have the survey done. Woody Crawshaw said he did have the survey done, and it was then refused by Robert Martin. Woody Crawshaw said the rear drainage will be done. Eilerts asked in what fashion? It will drain to the front, Woody Crawshaw said. Robert Martin asked that it be guaranteed that there will be no over-lap or infringement on our property when it's done. Unruh questioned if the home is tied down and skirted, does it meet county requirements? Sieger closed the public hearing for this

application.

Members continued discussion. It's a bad deal, and I feel for both sides, Eberhard said. Unruh said he is concerned with getting the home completely off property lines. Eberhard talked about a diagonal angle. That wasn't the intent, Woody Crawshaw said. Robert Martin showed a sketch of an idea he has, but objections came as this plan kills Crawshaw's and Vogel's views. Dick Vogel suggested moving the home back and turning it. Dick Vogel told Woody Crawshaw he still stands by his offer to sell a sliver of land to solve the problem. Unruh said he will not approve something when it sits on a property line. Eberhard and Eilerts agreed. Southwestern Bell told me every surveyor comes up with a different survey, Eberhard said. This size of home should never have been put in there to begin with, Eberhard said. I'm not real concerned where the home sits or in what fashion it sits, Unruh said. Unruh made a motion that the home be moved and we agree to a minimum of a one foot variance on all sides, and a minimum set back of 30 feet from Lakeshore Drive, and it must be skirted within 90 days. Fincham seconded the motion. I won't vote for it, Eberhard said. Eilerts agreed she would not vote for it. Eilerts asked Woody Crawshaw if he would consider purchasing more property from Vogel. That is a possibility, Woody Crawshaw said. The price was too high, before, he added. This is your problem, Eberhard said. You did not comply with zoning in '97, Eberhard told Crawshaw. Unruh rescinds his motion and Fincham rescinds his second. Eberhard made a motion to continue this application to the next meeting to give them time to try to work something out because they are suppose to be neighbors. Whatever you think you agree to, you better put some stakes in the ground, Bartel suggested. Robert Martin said it needs to be surveyed. Everyone said they thought it was surveyed. As built, Bartel said. Eilerts seconded the motion to continue to the July meeting. In favor: 8; Opposed: 0; Motion carried.

Item 11: An application for Larry and Deana Olsen requesting a Conditional Use Permit (CUP) for a miniature horse trail, which was published in the May 3, 2000, issue of the Hillsboro Star Journal. Members are now acting as the Marion County Planning Commission. Both Olsen's were present. Deana Olsen explained their interest in raising miniature horses and they decided if there is interest in walking around a corn maze, perhaps there is interest in some trails to walk miniature horses. The operation

would be supervised, she said. They would cut some trails on their property, located west of Marion just off the old highway. She said there would be easy and harder trails. They would start small and see what the interest is. They have a two acre pond on their property. They may add more trails in the future. They would grow with the demand, she said. Would they be leading the horses?, Sieger asked. Yes, the terrain is too rough to ride, Deana Olsen said. Would there be certain hours of operation?, Sieger asked. We'd start out by appointment, or certain days of the week, Deana Olsen said. Sieger asked about first aid, or other concerns? Deana Olsen said they would have an attorney draw up a release or waiver form. She said she has contacted an agent about insurance, and she has contacted the state about a license. There was no point going to too much expense, until this is approved, she said. She said there is an old slab where some day they may construct a knick knack shop for t-shirts or other souvenirs, or whatever, depending on the demand. This is where the old farmstead is, she said. She has talked to the wage and hour people, ADA, and work comp. Unless we advertise we are handicap accessible, we don't need to address this, she was told. We can just say no bathrooms, she said. But, we may choose to let them use our home bathroom and this would be okay, she said. But, we may bring in port-a-potties, she added. There would be no food involved, she said. You can't even have a pop machine without a food vendor's license, she said. We will have saddle bags, so the idea is to bring a snack, she said. Sieger asked if there were any questions. Bartel questioned the property line on the map. Would they park in your yard?, Sieger asked and was told yes. Sieger asked if anyone wished to speak from the public or if there was anything further. I'm still in the process of working with the Small Business Association, Deana Olsen said. I've talked to people to see what to do to start things out right, she said. Fees we can set ourselves, she said. I'm aware of employment requirements, she said. We thought we'd make an area available if they want to brush the horses, she said. We have 4-Hers come out all the time, she said. These horses are extremely gentle, and we wouldn't think of using anything else, she said. Olsen's currently own three miniature horses. We will probably advertise in the Wichita paper and with flyers, she said. We may start out with some trying it out in groups, she said. Possibly for company parties, she said. We have a large area that could be used for picnics, she said. Our insurance would not just be event insurance, which is a one time thing, and this would be

continual, she said. Sieger asked about signs. Probably just something similar to what we have now, Deana Olsen said. Sieger closed the public hearing for this application.

Members continued discussion of this application. We're trying not to go into debt to do this too much, Deana Olsen said. I've been working with Emporia State University for small business guidance, she said. We hope to be going by next summer, she said. It sounds like you have several things to line up before you're ready to proceed, Eilerts said. We just haven't made any commitments, until we get approval, Deana Olsen said. All I need to do is sign a check for the insurance, she said. It sounds like you've done what you need to do, Sieger said. Eberhard asked about approval if they are not operating for two years, it would lapse? A CUP would lapse after six months, Brazil said. I'd address the sign and the facility, especially if you get large groups out there, like 50 people, or more, Brazil said. The waste water lagoon they have would probably be adequate, but you start adding 50 to 100 people a week and you're talking about adding another cell onto there, Brazil said. Eberhard made a motion to recommend approval of a CUP with conditions that the sign and facility be adequate. Bartel added that a map should be in the file as a reference of what was approved. Bartel referred to Item 34 of CUP's. Bartel seconded the motion. Eilerts added that a start-up time of one year be included. Eberhard okayed these additions. Bartel okayed the additions. In favor: 8; Opposed: 0; Motion carried.

Item 12: An application for Darla Coleman requesting a variance for a temporary home to be placed on property for her mother. Members are now acting as the Board of Zoning Appeals. Coleman explained they intend to use the home for her mother, until she passes away, or is no longer able to care for herself. Sieger asked and was told there is a total of 44 acres on this property, including a machine shed, a barn, a lean-to, and a home. They wish to add a modular home? Sieger asked and was told yes. Not a single wide?, Sieger asked. No, a double wide. Sieger asked if the sewer would be separate? They have a lagoon now, and would add a second lagoon which could be used for a horse operation in the future when the modular home is removed. It does not involve any land currently used for agricultural purposes. Sieger asked if anyone wished to speak from the public. Coleman said they have no close neighbors. Is this property in pasture, or crop?, Sieger

asked. Mostly brome, Coleman said. Are there horses on it?, Sieger asked. No, Coleman said. One acre in the corner is taken out by a church, Brazil said. Unruh questioned a site for a lagoon? Yes, it could go behind the house and then could be tied into the barn, Brazil said. If we're acting on this as a Board of Zoning Appeals, there are two things to talk about, Bartel said. One, there needs to be a written agreement, or some other form of a surety that this is going to be removed, something more than the letter. Second, in the sequence of failing health its very possible, with assisted care, that a person could live for years and not live in this residence, so whatever time permits that health conditions in the home do not allow her to live there..., Bartel said. Sieger asked for further questions. Sieger closed the public hearing for this application.

Members continued to discuss this application. Unruh said there needs to be a covenant to cover concerns, which goes with the title. How can you enforce this?, Unruh asked. It all becomes a matter of county expense, Bartel said. It's true, but in the real world the county won't go to the expense, Unruh said. Eilerts asked how temporary housing is addressed in the regulations? Brazil said he is not aware. It's not, Bartel said. We're just trying to find a way here to be as human as we can be, Bartel said. We could put a term, say 10 years?, Bartel asked. Eilerts asked Coleman if they have considered adding on to their home, instead? No, Coleman said, she needs her independence. Sale would trigger removal, Bartel said. The motion could be to approve for a specified number of years, Bartel said. What if she's still there in 10 years?, Unruh asked. They would need to re-apply. What about 15 years?, Coleman asked. Unruh made a motion to approve the additional house requested, on the condition that we limit our approval for a term of up to 15 years and if at any time during the 15 years the home would become vacant, then the home would be removed and if a contract would be drawn up and recorded for sale of the property it could be authorized only if one home were on the property. Fincham seconded the motion. In favor: 8; Opposed: 0; Motion carried. Sieger explained this action does not have to go to the county commission for final approval, as it is approved here. You draw up a document and it has to be recorded and a copy put in the file, Coleman was instructed.

Item 13: An application for Roma Becker requesting a variance

from minimum lot dimensions in Liberty Township, located just east of Hillsboro. Members continue to act as the Board of Zoning Appeals. Roma Becker was present and explained there is an existing home and a large building on this property. The building would be good for her son's business and she wants to sell it to him. That's not what our agenda says, Bartel said. Delores Dalke was present and said the property is zoned SR. Dalke said Becker has 3.32 acres and would like to keep one acre. Dalke said Becker has to have 165 feet street frontage and this only leaves 82.5 feet, which does not meet SR dimensions. So what we'd be approving is a second home site with less than suburban footage?, Bartel asked. If we approve this, just the building can be sold off then, alright?, Bartel asked. But it's zoned SR, Dalke said. The total property he would be getting is 2.32 acres, Dalke said. It's not possible to build another house, unless he can get access from the back side, Bartel said. The only way a second home could be put on is the easement would be increased on the west side, and it's just a private road, now, Dalke said. Sieger said she received a letter addressed to the Board of Zoning Appeals from Clark Wiebe, opposing the variance as it would increase density and affect the ability of the land to handle waste treatment. It's not platted, Bartel said. It's somebody's nightmare, and probably Hillsboro's, he said. What happens to a county in this situation is they can be required to plat, he said. Unruh questioned if the property butts-up against property and easement, and Dalke said yes. Can we create access to this property?, Unruh asked. Sieger closed the public hearing for this application.

Sieger opened the floor for discussion, saying we are concerned about whether or not another residence could be located on this property. There could be another residence, now, if there was access from the easement road, Bartel said. But for this piece, the frontage has been used, he added. It's a private road unless it's platted, or he grants the new owner use, Brazil said. I don't think there is enough room to put another home there, Dalke said. I'm not comfortable with there not being enough room for access, Unruh said. Eilerts made a motion that this application for a variance be denied based on the fact there is only 82.5 feet, when specifications require 165 feet. Bartel seconded the motion. In favor: 8; Opposed: 0; Motion carried to deny.

Item 14: An application for Mary Ann Saunders requesting a

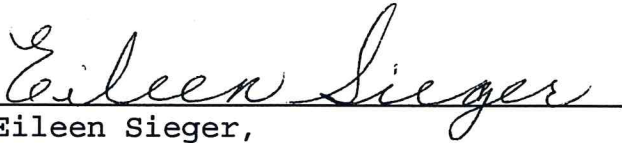
rezone from agricultural to rural residential. Members are again acting as the Marion County Planning Commission. Lyle Leppke with Seibel Real Estate in Hillsboro is present to represent Saunders, who is a resident of Lawrence, Ks. Leppke introduced Graeme Glaser. This property is located four miles west of Peabody in East Branch Township. The front faces highway 50. Leppke explained Saunders wishes to sell the home site and 10 acres. A tornado went by this place about eight years ago and took a barn, he said. This 10 acre site has a gravel road on the west and the current highway 50 on the south. Highway 50's easements are along the south boundary. It includes a four to five acre farmstead yard, buildings and five acres of farm ground to the west of the residence. We tried to keep as much of the farmland as possible, Leppke said. It's on rural water, has a septic system, and propane heat source, Leppke said. Unruh questioned a waterway. Unruh questioned if there are any terraces? No, Glaser said. Leppke said set backs are no problem. Fincham asked if the house is occupied, now? Not since the first of the year, Glaser said. Glaser's son lived in the house for some time, Leppke said. Saunders is not interested in renting the property, Leppke said. Is the house in need of repair?, Sieger asked. That depends on your individual standard of living, Leppke said. The house was originally moved onto the basement, Leppke said. It was originally a two-story home, he added. As far as needing major repair, no, Leppke said. It's very inhabitable today, if someone were to move in, he said. Eberhard asked and Leppke said the home is 1,150 square feet, with two bedrooms. Unruh questioned the ground notch. I like to see straight lines, he said. We're dealing with some places, and it's not fun, Unruh said. Glaser likes straight lines, too, but he is satisfied with this plan, Leppke said. Unruh asked how many acres is this piece? It could be two acres, Glaser said. We wanted to leave the shelter belt with that property, Glaser said. You don't want to destroy shelter belts, Unruh agreed. A jog on the west side is no problem, Glaser said. It's no different that it is now, he added. We wouldn't have done it this way, if it was a bottleneck, Leppke said. Sieger closed the public hearing for this application.

Members continued with discussion. I stopped in there and found an open ended septic line which needs to be updated, Brazil said. West of this place, about a third of a mile, they sold off a small tract and have a common driveway they have to share. Unruh made a motion to approve this application as presented with the

dog leg with a minimum of 10 acres. Fincham seconded the motion. In favor: 8; Opposed: 0; Motion carried.

Off Agenda: Brazil reported that on June 8 he has a session scheduled with a representative from the consultants, before work is started on the comprehensive plan. Fincham made a motion to adjourn and Robinson seconded the motion. In favor: 8; Opposed: 0; Motion carried and the meeting was adjourned at 11:53 p.m.

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS



Eileen Sieger,
Chairman