

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

RECORD OF PROCEEDINGS

September 22, 2005

Chairman Eileen Sieger called the meeting to order at 7:31 p.m., with a quorum and all eight members in attendance.

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

Sieger asked if there were any questions about the agenda. Sieger asked about off agenda items, and Brazil said Jim Kaup is here to meet with members for a work session. Sieger said she would adjourn the regular meeting and then go to the work session.

Sieger asked for corrections, or additions, to the Record of Proceedings of the August 25, 2005, meeting of the Marion County Planning Commission/Board of Zoning Appeals. Maxwell had a question about something Avery said on page four, where she talked about the comprehensive plan being in place before she became a member of the planning commission. Yates is to clarify the statement. There were no other changes. Ediger made a motion to approve the Record of Proceedings with one change, and Ensz seconded the motion. In favor: 8; Opposed: 0; Motion carried.

Sieger noted that all applications at this meeting are for the planning commission to address.

Item 4: An application for Charla Wheeler and Michael Wheeler, requesting a Conditional Use Permit (CUP) for a shop to service and repair electronic and mechanical motorized vehicles and storage and rental of recreational vehicles. This property is located in Gale Township. This application was published in the August 31, 2005, issue of *The Free Press* and the September 1, 2005, issue of *The Free Press Extra*. Sieger reminded members to please mention any conversations anyone may have had with applicants, or any conflicts of interest on any applications. Sieger said she spoke with Charla Wheeler some weeks back, as Wheeler was asking Sieger how the zoning process works. This property is just west of the old schoolhouse near Marion Reservoir. Charla explained that Michael, her son, wants to move back to Marion and start a business at this location for recreation vehicles. We'd like to have a service that would enhance the reservoir, Charla told members. Michael and Dean Snelling are friends, and plan to work on boats and jet skis. Michael showed members his plans on a large diagram. Sieger asked and Michael showed the boundary lines on the diagram. Avery asked and Charla said we are in the process of purchasing the property, but are waiting on the zoning. We were told the zoning was okay, and found out it was not, Charla said. The house is sound, Charla said. You plan to live in the home and you are able to do a lot of the work yourself, Sieger said and Michael said yes. Sieger said other people had the same

problem, as they were told it was commercially zoned and it was not. At one time the old school was a bait shop, Maxwell said. Yes, it was, but that was before zoning, Sieger said. Maxwell asked how far off the highway the house sits. If you were to receive a recommendation for approval, would it be a problem to store all your equipment inside?, Brazil asked. No, I plan on it, Michael said. I've got people wanting to store RV's out there, now, Michael added. Sieger asked about vending machines and Michael said for candy, drinks, bait, etc. I plan to keep it (the business) open 12 months out of the year, Michael said. Maxwell asked if there are plans for fuel sales, and Michael said not at this time. Maxwell asked if there are any long term plans for fuel, and Michael said not really. Sieger asked if anyone from the public wished to speak. Harry and Millie Friesen and Paula Emerson, who all live nearby, were present to speak. Sieger read a petition into the record. This petition was received on September 14, 2005. The petition was against a commercial business in the neighborhood. Emerson said she is concerned about kids riding their bikes and you cannot see around the corner. And she is afraid of increased traffic when they already have issues because campers turn around in their driveway due to a dead end road. Sieger asked, and Emerson said she already asked about having a sign put up, but was told no because they cannot enforce it because there is no law enforcement to enforce it. She said the neighbors have to watch for each other, as it is, due to the blind spot in the road. Harry said Canada has a RV park, and our road is a residential area. He said he is concerned about road upkeep, he is concerned about traffic, and he does not know why we need another place as Canada has RV storage. Millie asked about the free lots the City of Marion offers in their Industrial Park. Why not go some where like that, so you could serve both lakes?, Millie asked. Instead of robbing our residential area of peace and quiet, she added. Michael said there would be no changes to the landscape, whatsoever. The house is in a shambles, he said. I don't think traffic will be an issue, he said. Warren Kreutziger (Canada Bait Shop) asked me to store the overflow boat storage from Canada Bait Shop, Michael said. I want my daughter to be with me and I want to work so I can spend time with my daughter, he said. I don't plan on doing millions of dollars of business, he said. The only thing that might cause more traffic is the pop machine, and I was going to ask the Corps of Engineers about putting them (vending machines) by the rest areas, he said. The only traffic should be customers coming in and out, Charla said. I have a seven-year-old daughter, so I'm concerned about traffic, too, Michael said. I'm going to still work for Radio Shack for at least one more year, and I'm going to clean up the place, first, Michael said. It may be 10 cars a day, at the most, he said. I know what traffic we have, now, Emerson said. We welcome neighbors, but I don't know why you want to store all those things, Harry said. I will keep them in buildings, Michael said. I will clean up the property, he added. It's not going to be like Canada Bait where you see them, he said. From your house, what if you continued the road to the west?, Maxwell asked. Would that help the traffic problem?, Maxwell asked. Sure, but the first year is just going to be cleaning it up, Michael said. Is it the trees, or the building, that block the traffic view?, Sieger asked. How doable would that be?, Sieger asked about extending the road, and Michael said very. The first part is owned by the state, Emerson said. The expense would probably be on you, Brazil told Wheeler. It's very possible to do, Brazil said. Mille asked about another entry from the highway. Two entrances that short distance apart, I can't say for sure, but I don't think that would fly, Maxwell said. Could we refer him to the road and bridge department?,

Avery asked. You could put a condition on there that the entrance needs to be at the southern part of the property, Brazil said. Sieger asked if there was any other information, or comments? Sieger closed the public hearing for this application and opened the floor for discussion and a recommendation.

Sieger reminded members this is not a request to change the zoning for the property to commercial. I'd like to see a business on it, and I'd like to see the residential area maintained, Maxwell said. So, if we can make a condition for the traffic, I would hope that helps the concerns of the neighborhood, Maxwell said. Across the way, a hunting and fishing lodge was approved for a CUP several years ago, but that never occurred, Sieger said. I like Bob's idea of moving the driveway, Mueller said. A lot of the traffic is already there, and this may actually help some of the current traffic, Mueller said. Mueller made a motion to approve a recommendation for a Conditional Use Permit (CUP) for the entire "RR" Zone District parcel as presented in the development plan, and include six recommendations: first, that no outside storage of equipment be allowed, except for display of available recreational vehicles for rent and for vending machines; second, that the public water system be inspected on an annual basis; third, that the on-site wastewater system be inspected for adequacy to support increased use; fourth, that all signage meet Article 18-107 of the Marion County Zoning Regulations and be compliant with the Kansas Department of Transportation (KDOT) corridor and highway visibility signage regulations; fifth, that all applicable state and federal licenses be obtained and maintained; and sixth, that the applicant work with the Marion County Road & Bridge Department to locate a new driveway at the southern end of the property. Brazil pointed out that a CUP would lapse after six months, so it may need to be extended. If they are making improvements toward the business, does that count?, Sieger asked. Brazil recommended extending the CUP time. Maxwell asked if he could ask the applicant a question about his intentions for signage. It was pointed out that signage was addressed in the motion. Maxwell said his question is about lighted signage. It's all addressed in Article 18, Brazil said. Maxwell asked where they plan to put the sign, and Michael said near where we will move the road. Sieger asked if there was any other discussion. Mueller amended his motion to include a seventh recommendation, to extend the period for the CUP to lapse from six months to 18 months. Avery seconded the motion. In favor: 8; Opposed: 0; Motion carried. Sieger explained this recommendation would now go to the county commission for final approval. Brazil explained the timeline.

Item 5: An application for Jeff Bina, requesting a Conditional Use Permit (CUP) for a commercial feedlot for property located in Clear Creek West Township. Sieger reminded members they are again acting as the planning commission for this application. This application was published in the August 31, 2005, issue of *The Free Press* and the September 1, 2005, issue of *The Free Press Extra*. Bina was present to speak about his application and said he has had cattle and hogs on this property for several years. He said the Kansas Department of Health and Environment (KDHE) is requiring him to put in a new lagoon for the hogs. And the cattle, which are in three pens, have to be moved and a new lagoon is required for the cattle, too, he said. Bina said he has 750 cattle and 600 hogs, for a total of 1,350. He said he has to move his cattle 100 yards up from where they

are, now. He explained that 2 ½ hogs = 1 animal unit; 2 cattle under 700 pounds = 1 animal unit; and 1 cow over 700 pounds = 1 animal unit. Mueller asked if it would be good to match KDHE's numbers with our numbers. To match it up is probably a good idea, Brazil said. So, you wouldn't have a problem if you need to come back in the future?, Avery asked. Bina asked why he would need to come back and Brazil explained if the number of animals increases and zoning has not allowed for room to grow, he would need to come back and get approval again at that point. Bina's wife asked if the numbers could please be set higher, to avoid needing to come back in the future. Brazil asked Bina if he is receiving cost share assistance for improving his wastewater system? Bina said yes, he couldn't afford it, otherwise. Sieger asked if anyone from the public wished to speak about this application. Sieger asked if there was anything further for this application. Ediger asked where the closest residence is located, and Bina said about a mile away. Pilsen is about a mile from this property. Sieger asked and Brazil said no public comments have been received concerning this application. Sieger asked if there was anything else. Sieger closed the public hearing for this application and opened the floor for discussion.

Mueller asked Brazil about his staff recommendation involving a separation distance of 1,320 feet from any existing residence. They have a signed waiver, Mueller said. Then, it is not an issue, Brazil said. Brazil said he would like a copy of the waiver for the file. Mueller made a motion to approve a recommendation for a Conditional Use Permit (CUP) on 40 acres for a commercial feedlot facility as presented in the development plan, and include two recommendations: first, to limit the maximum occupancy to no more than 1,500 head of cattle and 600 head of swine on site at any one time; and second, that all required state and federal permits be obtained and maintained. Maxwell said he was not satisfied with the numbers, and he wants the numbers the same as KDHE's numbers. What it does is afford them flexibility in the future and they would have to go back to KDHE to expand, Brazil explained. KDHE uses animal units and this allows the maximum KDHE allows and I'd rather allow the maximum, Mueller explained. Our numbers do not coincide with KDHE, Maxwell said. I agree, their driving factor is animal units, Mueller said. The other compromise is to address the maximum permitted by the KDHE permit, Mueller said. The current KDHE permit, Brazil said. They're going to focus on the animal units, Brazil said. The recommendation is to permit at least what KDHE is permitting, Brazil said. Are you satisfied with the motion, or do we need to amend it?, Sieger asked. You're not specifying how many pounds, Maxwell said. We're not going to specify how many pounds, Brazil said. Eilerts seconded the motion. In favor: 8; Opposed: 0; Motion carried.

Item 6: An application for Ken Krehbiel, requesting a lot split for 19.58 acres for property located in East Branch Township. This application was published in the August 31, 2005, issue of *The Free Press* and the September 1, 2005, issue of *The Free Press Extra*. Jerod Hett was present to speak about this application. Hett currently lives on the property and has been renting it for about five years. He said there are a house and a couple of out buildings on the property. He said there is a total of 160 acres and he would like to split off 19.58 acres. Brazil said they have met all the requirements. LESA (Land Evaluation and Site Assessment System) does not apply to existing home sites, Brazil

reminded members. The land did rate fairly high, Brazil said. The combined score was moderately high, he added. Sieger asked if anyone from the public wished to speak about this application. Sieger asked if there was anything further. Sieger asked about the land use around the existing buildings, and Hett said it is mostly pasture ground. Sieger closed the public hearing for this application and opened the floor for discussion.

Avery made a motion to approve a short form lot split of 19.58 acres in the "A" Agricultural Zone District as presented by the applicant, with the requirements that the short form lot split plat and the agricultural disclaimer be recorded by the Register of Deeds with the deed transfer, and that certification of such actions be filed in the office of the planning commission. Maxwell seconded the motion.

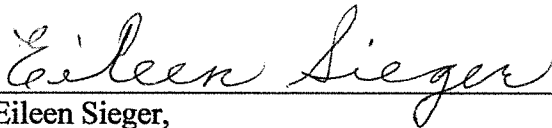
In favor: 8; Opposed: 0; Motion carried.

Item 7: An application for David Harris, requesting a lot split for five to 10 acres, for property located in East Branch Township. This application was published in the August 31, 2005, issue of *The Free Press* and the September 1, 2005, issue of *The Free Press Extra*. Brazil explained the survey for this application was not done in time, so this application needs to be continued. Mueller made a motion to continue this application to the October 27, 2005, meeting of the Marion County Planning Commission/Board of Zoning Appeals, and Ensz seconded the motion. In favor: 8; Opposed: 0; Motion carried.

Unrau made a motion to adjourn the meeting and Maxwell seconded the motion.

In favor: 8; Opposed: 0; Motion carried and the meeting adjourned at 8:56 p.m.

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS



Eileen Sieger,
Chairman