

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

RECORD OF PROCEEDINGS

September 23, 2004

Chairman Eileen Sieger called the meeting to order at 7:32 p.m., with a quorum present for both the planning commission and the Board of Zoning Appeals.

Roll Call was answered by Sieger, Marquetta Eilerts, Bob Maxwell, Mary Avery, David Mueller, Glen Unrau, and Ervin Ediger. Willis Ensz arrived late, due to jury trial duty. Zoning Administrator David Brazil was present. Scott Michie, of Bucher, Willis and Ratliff, was also present.

Sieger asked for corrections, or additions, to the Record of Proceedings of the August 26, 2004, meeting of the Marion County Planning Commission/Board of Zoning Appeals. Ediger had a correction on page four, where six feet should have been sixty feet. Ediger made a motion to approve the Record of Proceedings with the one correction, and Maxwell seconded the motion.

In favor: 6; Opposed: 0; Abstained: 1 (Eilerts); Motion carried.

Item 4: An application for Terry Graber/Derold Becker, requesting a variance from required acreage of 40 to 36.6 acres, for property located in East Branch Township. Public Notification was not properly completed for this application.

Item 5: An application for Raymond Brandt/Lyle Leppke, requesting a rezone from agriculture to rural residential, for property located in Risley Township. Public Notification was not properly completed for this application.

Brazil explained that since publication notification was not properly completed, he recommends continuing both applications to the following month's meeting. I have taken proper action within the department, and I apologize to the applicants for having to wait another month, Brazil said. We want to do it, correctly, Sieger said. I would recommend a motion to continue both applications, Brazil told members. Sieger reminded members they are acting as the Board of Zoning Appeals for the first application, and as the planning commission for the second application. So, should we vote on them, separately?, Sieger asked and Brazil agreed. Sieger clarified which members are on the Board of Zoning Appeals, and currently all members are part of the board, except Eilerts. Mueller made a motion to continue Item 4 until the October 28, 2004, meeting. Maxwell seconded the motion. In favor: 6; Opposed: 0; Motion carried. Avery made a motion to continue the application for Item 5 to the October 28, 2004, meeting. Unrau seconded the motion. In favor: 7; Opposed: 0; Motion carried.

One of the applicants had a comment. Brazil suggested handling this during off agenda items. Sieger asked members if there was any objection to moving off agenda items up on the agenda, and hearing the applicant's comments at this time. There was no

objection. Jon Meier, proposed buyer of the Brandt property, said they planned to close on this property on October 15. So, we'll miss the closing date, and the mortgage is only good until October 26, Meier said. This is costing us, and we've had our ducks in a row, Meier said. Sieger explained that recommended applications go to the county commission for final approval on the third Monday of the month. So, I'm not sure you would have made it, Sieger told Meier. I would have made my October 26 date, Meier said. I've taken strong action to correct this problem, and I apologize, and if we proceeded you would not have a legal rezone, Brazil told Meier. The waiting is inconvenient, but the dollar amount really hurts, Meier said. What is our assurance it will be published on time, next time?, Brandt asked. Human error does occur, Brazil told him. What is our assurance?, Brandt again, asked. I will be personally responsible, Brazil told him. Where were you this time?, Brandt asked. This property wouldn't even be up for sale except my wife has health problems, and we want to get it sold, Brandt said. I'm wondering if we can take legal action against your department, Brandt said. Everyone here tonight is trying to do what is right, and I don't think anyone here has gone through life without something happening and not going right, Maxwell said. Have you ever paid for a service and not received it?, Meier asked. Yes, Sieger said. We're not going to get anywhere with this, and we're sorry, Sieger said. We're trying to work with you, Maxwell said. It's become a financial burden, Meier said. But, you were assuming it was all going to fall in line, Maxwell said. And you were assuming it was going to be approved, and you cannot assume, Sieger said. It's very difficult to time a sale and a rezone at the same time, even if it had been published on time, Brazil said. Is there anything else?, Sieger asked. Are there any other off agenda items?, Sieger asked.


Item 6: Consider recommendation for proposed zoning and subdivision regulations. I want to clarify the copy that went for public hearing had things that need to be cleaned up, Sieger said. Brazil explained the differences. We need IP1 and IP2 on billboards, Brazil said. Sign regulations are not something that's really been changed, Sieger said. We added a section, after getting an example from Michie, Brazil said. This is Article 18, sign regulations, right?, Sieger asked and Brazil said yes. Sieger asked if the spacing issues were taken care of, and Brazil said yes, that it was just a format issue. Maxwell asked if members are ready to talk about the public comments, and all agreed. Sieger asked what about some of the WECS suggestions from Savage's e-mail. Mueller referred members to page 142, concerning the comment about the two-year time period. Mueller read the first sentence. I think this was our intent, Mueller said. Then in line two, one year per should be replaced with two years, Mueller said. Four lines down in the middle of the page, 12 – 18 month time period should be 24 – 30 months, Mueller said. In terms of extension, this means a six month extension?, Brazil asked and members all said yes. Mueller read 31-108, paragraph three, page 143, number three. His concern was, is this exclusive, or does "other techniques" include trenching?, Mueller asked. I was comfortable, but if we want to add trenching..., Brazil said. On crossing roads, do they have to go to the county commission, first?, Maxwell asked. So, it all comes down to those folks, if they're going to let them trench, or bore, Maxwell said. Mr. Savage was concerned about not having to bore everything, and bringing plans showing where they are going to bore and where they would trench, and let the county commission approve it, Brazil said. That all depends on the terrain, Sieger said. If you want to require that all

lines be underground, you would not need to change it, but if you want to allow above ground, you would need to modify it, Michie said. The public was concerned if there is an above ground line they could tap into, that they would be allowed to do this, Michie said. I didn't understand it that way, Sieger said. The "other techniques" is in there, Sieger said. I think that covers it, Maxwell said. Mueller asked about attaching "vibrating plow." Would micro tunneling cover it?, Sieger asked and Ediger said no. This gives us flexibility, Avery said. I think it's important to maintain some flexibility as technology is growing, Avery said. I think it's a good statement like it is, Maxwell said. I'd still like to see vibrating plow included, Mueller said. That's going to be difficult to use in the Flint Hills, Ediger said. Are all okay on the issue?, Sieger asked and all agreed. Members moved on to the surety bond issue, 31-108, paragraph five. If you put "a," I think it's much more protective of the county, Brazil said. If you put "any," it could be a dollar, Brazil said. I agree with David to leave it as it is, Mueller said. He was talking about doing without a surety bond, and I think that's way out of line, Maxwell said. Moving on to 31-108, paragraph 11, on ground re-seeding. The ground should be restored to a use compatible with the surrounding use, Mueller said. Take out native grass, Sieger said. Next was 31-108, paragraph 18. How do you declare reasonable, or unreasonable?, Sieger asked. Does anyone see a reason to address this?, Sieger asked and members said no. For 31-109C, Michie suggested changing to "of any such site" in place of "the land," and members agreed. Sieger read Savage's e-mail comments concerning this point. We want to be clear as to how it's read, Sieger said, and members agreed. That's the end of his list, Sieger said. Does anyone have any other comments?, Sieger asked. Eilerts asked if the next printing would be final. Not until after the county commission reviews it, Sieger said. If they make changes, then send it back to us, and we can agree or they can override us, Sieger said. Michie said he found a mistake in Article 28, under amendments, concerning the notification area. In 28-102, fourth paragraph, "at least a mile" means a mile onto the rest of the universe, Michie said. It should read within 5,280 feet, or less of the area, Michie said. Does within cover it?, Maxwell asked. Take "at least" out, Ediger said, and members agreed. Is there anything else?, Sieger asked. Dan Holub had commented on five acres, Maxwell said. That would have to go back to the comprehensive plan, because it has that in place and we just followed that for this, and that is in place, Sieger said. I think whatever happens has to follow the regs, Sieger said. And, as far as the road situation and the tax base situation, that's when you put something out where there are no services, or roads, Sieger said. It costs the county, so that has to be balanced against what's coming in on a tax base, Sieger said. It was mentioned for homeowners to foot the bill for putting the road in, but it doesn't end there, Maxwell said. Ambulance service, fire service, bus service for kids, etc., Sieger said. Is there anything else?, Sieger asked. Do you feel comfortable with what we have and the changes we've made, tonight?, Sieger asked. Sieger asked Michie if he had anything else. Ensz arrived at this point (8:20 p.m.) from jury duty. Sieger explained to Ensz about the public comments heard tonight, and that a few changes were made. So, are we ready to take action as the planning commission to make a recommendation on this?, Sieger asked. We need to be sure we're okay on the subdivision regs, too, Sieger reminded members. Brazil put together two resolutions. One for the zoning regs, and it does include considerations from the public, and one for subdivision regs, Brazil said. Can these changes be done in house?, Brazil asked and members said yes. Sieger read the zoning regulations resolution.

Sieger read the subdivisions regulations resolution. Sieger pointed out the differences. Mueller made a motion to adopt Resolution #04-01 for zoning regulations. Maxwell seconded the motion. In favor: 8; Opposed: 0; Motion carried. Mueller made a motion to adopt Resolution #04-02 for subdivision regulations. Maxwell seconded the motion. In favor: 8; Opposed: 0; Motion carried.

Sieger reminded members the next meeting is scheduled for October 28, 2004. Sieger also reminded members that the November meeting is early, due to Thanksgiving. Avery asked about a timeline. Brazil said hopefully by January 2, 2005. Sieger reminded members the 14 day written comment time starts today. Maxwell said on the two applications tonight he didn't know what happened, and wondered if he can ask questions after the meeting. Sure, Brazil said. Ultimately, the notification is my department, my responsibility, but the details I could not discuss in a public meeting, Brazil said. I'm just curious why it happened, Maxwell said. Notification errors are going to occur for lots of reasons, and this was not the applicant's fault, Brazil said. If an applicant puts the wrong information on a notification, we have to postpone, too, Brazil said. I just think the timing was unfortunate, Avery said. We appreciate it's going to cost them money, but if we'd gone on we would have cost them problems, too, Avery said. Eileen was correct that they had not allowed enough time, Eilerts said. Mueller expressed thanks to Brazil, Michie, Maxwell and Sieger for all their work and time. Michie thanked Brazil for all his leadership. Mueller made a motion to adjourn and Avery seconded the motion. In favor: 8; Opposed: 0; Motion carried and the meeting adjourned at 8:37 p.m.

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Eileen Sieger,
Chairman