

MARION COUNTY PLANNING COMMISSION  
PUBLIC HEARING FOR PROPOSED ZONING AND SUBDIVISION  
REGULATIONS

RECORD OF PROCEEDINGS

September 23, 2004

Chairman Eileen Sieger called the public hearing to order at 6:02 p.m., with a quorum present.

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

Sieger said this public hearing was published in the September 1, 2004, issue of the *Marion County Record*. Sieger introduced Michie, saying he has helped work on zoning updates in the last year, helped develop a model for subdivision regulations, and also a model for sign ordinance.

Michie said the regulations are most critical to land use, with Article 2 giving the overall concept. You don't have to have a 40-acre parcel to develop a non-farm development, but one unit per 40 acres is still intact, he said. Now you can have a non-farm home on a five-acre lot, if the overall density keeps one per 40 acres, he said. This gives a little bit of flexibility, Michie said. Sieger asked Michie to explain the requirements for five acres. Michie explained land would be judged according to the Land Evaluation Site Assessment (LESA) system, for non-tilled land. The proposed property must be on all weather roads, or be existing farmsteads on gravel roads, he said. This is a tool, or mechanism, for David to use, and he can bring this evaluation to this body, Michie said about the LESA system. It's meant to give you more information and give a clear recommendation to the county commission, Michie said. Those five acres are not really rezoned, Sieger said. It would just be a lot split, she said and Michie agreed. Village One applies to Marion lake, he said. There's a section on what you do when you consider certain amendments, Michie said. You're required to have a full member vote, he said. We've always made sure of that, Sieger said. Michie explained Wind Energy Conversion Systems (WECS). He said there are two categories. One section has to do with single home WECS, and the other is for industrial use, he said. It calls for a site plan, and a use permit, and a public hearing, Michie said. It also takes into consideration the Chisholm and Santa Fe Trails, he said. Brazil showed on the large map on the wall where the overlay district is located for WECS. It does exclude the section around Florence, Brazil said. Jim Davis, of Marion, asked if this is the only proposed area that is going to be allowed for WECS. For industrial use, it needs to occur in the overlay district, Brazil said. Why?, Davis asked. Brazil said because of transmission, residential density, accessibility, and probable wind speeds. Davis asked how you figure wind speed. There are wind speed maps, Sieger said. We're kind of on the edge of the Flint Hills area, Brazil

said. A CUP (Conditional Use Permit) would be applied for, in the overlay plan, Brazil said. It's a pretty broad overlay district, Brazil said. At any time any citizen can approach the planning commission to expand or change the overlay district, Michie said. Would that take a lot of time?, asked Dan Holub, rural Marion. It would just be an amendment, Michie said. My hope is we do this once, and set a precedent, Brazil said. Overlay districts are very common, Michie said. I can't say how common for WECS, he added. You're probably talking about a 90-day process, Brazil said. Ideally, if there were issues, we would address them now, and not change the definition down the road, Brazil said. Holub asked if that means it would be set in stone. There would be options, Brazil said. Sieger reminded everyone that members always review the regulations each year. Michie talked about cell phone towers. There have been some recent rulings by the FCC, he said. Some get kind of strict and the FCC says you can't get too strict, he said. When someone comes for a cell tower permit, they must prove they have exhausted all other options, Michie said. Sieger reminded everyone that Marion County has required strobes during the daytime on towers. A lot of new definitions have been added to clarify things, Michie said. Our regulations were originally adopted in 1992, Sieger said. There were some changes made in about 1997, she added. But, these are the biggest major additions, and obviously some changes, too, to the original, she said. Sieger asked if anyone from the public wished to speak. She asked them to step up to the table and give their name and address. She asked members to please not discuss at this time. We need to listen as this is for comments, she said. And, we will consider the regs at our regular planning commission meeting later tonight, and if we recommend tonight, then there will be a 14 day period for submitting written comments to the county commission, she explained. Rex Savage, of rural Florence, asked Brazil if he forwarded Savage's e-mail to the other members. Only Sieger has seen it. I did go through the draft and several items didn't line up with discussions we have had, Savage said. He had the current draft, Brazil said. It's all on Article 31?, Sieger asked and Savage said yes. On 31-106 about power purchase agreements, there's a 24-month period for that, but it didn't follow on through with that, Savage said. A 24-month initial life span for the CUP, Savage said. On page 152, Brazil said. As you go down in the paragraph, it does not refer to the 24-month period, Savage said. Members made notes. In 31-108 paragraph three, in regard to installation of underground lines, Savage questioned if all need to be tunneled and bored. I would like to see it be at their discretion, Savage said. 31-108 paragraph five, about bonds, I wish it said "any" instead of "a," Savage said. 31-108 paragraph 11, on re-establishing vegetation after closing a site. It would be in the best interest for it to be native if it was native, brome if it was brome, etc., Savage said. 31-108 paragraph 18, concerning transfer of a CUP, if the developer sells I would think you would need a reasonable procedure, Savage said. 31-109 C, on conservation easements, I think it's a little unclear, Savage said. My intent is not to nick pick, I'd just like to be as clear as we can, Savage said. Maxwell questioned Savage's point on 31-108 paragraph five, on surety bonds. I am simply suggesting the use of "any" instead of "a," Savage said. There are no hazardous materials present, and they come down quite easy, Savage said about removal. Some old ones had PCV's, Sieger said. Not any more, Savage said. Savage also spoke about the value in the scrap metal from removal. I think that's a good point, there is value in it and it easily comes down, Michie said. I think I can remove a wind turbine for not much more trouble than it is to plug a well, and the salvage value is higher, Savage said. Holub

questioned one home per 40 acres. Why all the other rules, like having to have a road right there?, Holub asked. Tilled farmland is not eligible for this, at all?, Holub asked. LESA takes the Marion County Soil Survey and takes the land and soil values to determine if it is productive ground, Brazil said. So, highly productive soils would be much more difficult, Brazil said. A new home site with virgin ground, if highly productive, makes it much more difficult, Brazil said. What do you compare it to?, Holub asked. Other soils, Brazil said. What we're really doing is balancing out zoning regulations and LESA allows us to hold onto highly productive ground, Brazil said. I'm just trying to understand, Holub said. Lot of things written in here that take the decision-making process away and I don't like being overly restrictive with it, Holub said. There needs to be a decision process, here, Holub said. Without just relying on pieces of paper and going on, Holub said. It only kicks in if you want to do it on a five-acre parcel, not a 40-acre parcel, Michie said. What is the state requirement?, Holub asked. Most counties have a three-acre policy, Michie said. Maybe farmers can make more off five acres than they can make off the ground in several years, Holub said. Clifford Hett, of rural Peabody, said he has 20 acres on Sunflower, on blacktop. So, I can only have one?, Hett asked. The tract is 80 acres?, Brazil asked. For each 40 you can subdivide off two, five-acre parcels, Brazil said. Only two if it stays zoned ag, Michie said. You can request a zoning change, and if you meet the standards..., Michie said. Rural Residential will be like Village One, no more new ones, Brazil said. All these restrictions on 40 acres is for ag zoning, so if you can meet other requirements, then you can ask for a zoning change, Michie said. Sieger asked if there were any public comments on the Subdivision Regulations? We worked to sink up with the cities that have zoning, Brazil said. How does this effort work with you?, asked Randy Dalke, Mayor of Peabody. A city always has an option to annex, Brazil said. If we get any applications, what will happen is my office will invite your planning commission to the meeting and we'll take two recommendations to the county commission, one from the county planning commission and one from the city's planning commission, so you have a strong voice from the city, Brazil said. It will be a two-recommendation process, two separate recommendations in the minutes, and it goes to the county commission, Brazil said. Sieger asked if anyone else wished to speak about the Subdivision Regulations? Sieger asked if there were any other comments from the public? Avery made a motion to adjourn the public hearing and Ediger seconded the motion. In favor: 7; Opposed: 0; Motion carried. Brazil commented that the public hearing is on the regular meeting agenda, and Sieger explained members would consider it on their meeting agenda.

MARION COUNTY PLANNING COMMISSION

  
Eileen Sieger,  
Chairman