

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

RECORD OF PROCEEDINGS

September 26, 2002

Meeting was called to order by Vice Chairman Bob Unruh at 7:30 p.m., with a quorum present.

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

Unruh asked for corrections or additions to the Record of Proceedings for the August 22, 2002, meeting of the Marion County Planning Commission/Board of Zoning Appeals. There were no corrections. Unrau made a motion to approve the Record of Proceedings as written, and Ediger seconded the motion. In favor: 5; Opposed: 0; Motion carried.

Item 4: An application for Todd Svitak, requesting a Conditional Use Permit (CUP) for automobile sales on property located in Clear Creek West Township. Unruh reminded members they are acting as the planning commission for this application. This property is located one mile from U.S. 77, and is a half-mile west of Lincolnville, on the north side of the Durham/Lincolnville road. There is a hedgerow by the property. Svitak owns an 80-acre tract and has been in business at this site for 12 1/2 years. He's on our conditional use list for auto repair, Brazil said. Members passed around photos of the business. Right now I have a shop that sits back from the road and a rock parking lot, Svitak said. All I really want to do is become a dealer and park the cars along the ditch for sale, he said. He explained he would buy vehicles from an insurance pool and do the necessary work on them for resale. Unruh asked if bodywork would fall under the auto repair conditional use. Whatever he's been doing, Brazil said. There are two options, either request now, or if he wants to expand, come back at a later time, Brazil said. I think bodywork falls under repair, Brazil said. It's probably a gray area and probably debatable, but that's my opinion, Brazil said. There isn't an actual file, because it was brought into zoning, Brazil said. I've done machine work, auto repair, etc., Svitak said. Are we talking about engine work or are we talking about straightening frames, and does it include transmission work?, Unrau asked. If a customer comes in and requests it, we generally don't turn it away, Svitak said. We work on combines, if someone hits a deer, if we decide to take it on.....I don't specialize in bodywork, but I do whatever the customer requests, he said. Unruh brought it to everyone's attention that a letter was received of concern from Lawrence Rabon. That's this person's perspective, Unruh said. The photos don't seem to show it's in as much disarray as the letter states, Eilerts said. Some cars I've hauled out back, Svitak said. What exactly is out back?, Avery asked. In the pasture, totally out of sight, Svitak said. A lot of the vehicles in the photos are not mine, only about four are mine, Svitak said. Brazil said there would be about 2.06 acres involved. It's probably 300 to 400 deep and it's probably almost square, Svitak said. Unruh called attention to a diagram of how Svitak plans to expand his business. I need to get some of the vehicles

out of there, Svitak said. The CUP would be for a given area and I don't want to see a salvage area in the back of the property, because eventually we'll have to deal with that, Brazil said. I think used car sales and repair is a positive thing, but a salvage yard is another, Brazil added. Unruh asked and Svitak said he uses a waste oil burner. I have never heated with gas, he said. The wastewater is a septic system and is working fine and his well is not drinking water, it's just for the business, Brazil said. I drink the water, Svitak said. It was drilled when I put in the building, he added. Since the public is not going to be using it..., Brazil said. KDHE does the permitting on public water wells and they work with sanitarians to go around the area and do some testing, Brazil said. Svitak is not on the list, so the easiest solution would be to have bottled water available for the public, Brazil said. Will there be additional lighting?, Unruh asked. I have no plans at this time for that, Svitak said. Do you plan on a sign?, Brazil asked. Is it less than 4x8?, Brazil asked. The dealership license requires a sign and I think it's right at that, Svitak said. Have you ever thought about putting behind the building, an eight or 10 foot fence to hide some of the vehicles?, Unruh asked. I have thought about it, but it really would not be convenient and for theft reasons if someone wants in, they're going to cut the fence and then there's something else to repair, Svitak said. Right now there's probably four total inoperable vehicles?, Unruh asked. I've been stuck with some vehicles and if taking them to small claims court would solve it, I would gladly do it, and there are probably another four that I'm fixing up right now, Svitak said. My perception, when I go by your business, is perhaps it would be more appropriate if we could keep the property more organized, Unruh said. It has gotten better, and that's probably what Rabon is talking about, and it's generally getting better, Svitak said. I would concur, it's generally getting more organized, Unruh agreed. Some obsolete vehicles there just need to be hauled off that were just given to me, so they're probably going to go, Svitak said. If things work out the way you hope, how many cars do you want to have for sale?, Ediger asked. I'd like to see upwards of 10 along the road, but for starting out I can't afford to put 10 out for sale, but as things progress I'll reinvest, Svitak said. The lot already is graveled?, Unruh asked and Svitak nodded. Svitak said he has recently mowed and sprayed, and where photos show it as still green, is now brown. Unruh asked if there are any other questions or information needed. Unruh closed the public hearing for this application.

Unruh asked Brazil for his recommendation. In my staff recommendation, I recommended approval on three acres or less for auto repair and sales, but I want to see a limit on the number of vehicles, Brazil said. I would like to mention in terms of body repair, I'd like to see this go back through the process as there will be additional information we don't have tonight, Brazil said. Avery questioned Brazil's suggestion to okay 10 inoperable vehicles. I was trying to determine a number for the space and I listened to Svitak and tried to balance it out and came up with 15 used and 10 inoperable for a total of 25, Brazil said. Is it manageable for one person?, Unruh asked. I have two other employees, Svitak said. Usually we request inoperable vehicles to be under cover and out of sight, but they weren't grandfathered-in, so does grandfathering-in preclude that requirement?, Eilerts asked. The application that comes to mind was on the edge of Hillsboro with quite a few neighbors and I view the difference there being out in an ag area, Brazil said. Image is a big thing and I like to see it all clean, mowed and kept up, Unruh said. I guess I'm real fussy about things like that, he said. I like to see Marion

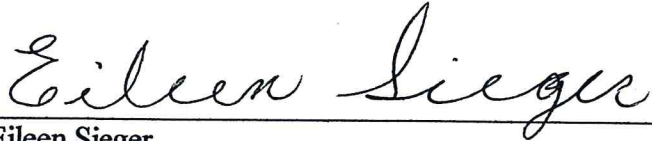
County as having a nice image, Unrau said. Svitak showed photos of two single file rows facing east and in an organized manner. I didn't get to mow as much as I wanted this year, he said, and I want to kill a lot of it off so I don't have to worry about it. The state has really changed the requirements for any lot that has more than 10 vehicles, especially next to state highways, they have to have a salvage license, Brazil said. Unruh suggested some kind of enclosed area behind the shop to help appearances. It could be a wire structure or a wood structure, any where from six to eight feet tall, to 10 to 12 feet tall, Unruh said. Members, would something like that be something to look at, or is that overkill?, Unruh asked. Maybe the solution is to separate out cars for sale, cars for repair and cars for salvage, Brazil said. I think what you're saying is you'd like to see him come back with a plan on how to address these concerns we've raised here today, Avery said. Having an expanding business in Marion County is good, but having cars sitting around concerns me, Avery said. I'm on the side of the independent mechanic and I agree with Glen, let's not make a mess of it, but I drive by there and he's doing a good job, and such mechanics are invaluable, Ediger said. Maybe he could keep some of the inoperable vehicles out of sight, Eilerts said. I can even see some kind of bushes being placed as a barrier and there would be less expense than a good fence, and if there's a burden I don't really want to burden the business person, but I do agree with Mary that there does need to be some kind of order and I know with this kind of business it is difficult to keep a better image, Unruh said. We're just talking about normal housekeeping, if the hood is up, put it down, and keep them in a line, Unrau said. There's a drainage ravine behind my shop and the in-operables could be put on the other side to hide them, Svitak said. Right now I don't put anything there because it's inconvenient, but if that's an option..., Svitak said. Summarizing our thoughts, we want to be pro business, yet we want to encourage him to present the business in the best possible way he can achieve with this type of business, Unruh said. Mary, you seem to indicate you'd like this application to come back with more details, Unruh said. I'm just asking for a plan for how he can address our concerns, I'm not against this business, Avery said. Svitak showed members on a diagram where things would be located on the property. I can accept his plan for vegetation and placing the vehicles behind there rather than asking him to come back, Eilerts said. I'd like to see signage included in there, Brazil said. We do not have a sign chapter in our regs, but 4x8 non-illuminated signs is the precedent we've set, Brazil said. I think that's what the state suggests, and as far as I'm concerned the smaller, the better, Svitak said. I move we approve recommending a conditional use permit on less than three acres for auto sales and service, with not more than 15 used operable vehicles onsite at any given time and not more than 10 inoperable vehicles onsite at any given time, and the owner must maintain all appropriate permits and licenses from the State of Kansas for auto sales and service, with a sign to be approved as well with the State of Kansas rules and recommendation, and that the owner place all inoperable vehicles behind the tree barrier behind the existing shop building, Eilerts said. Unrau seconded the motion. In favor: 5; Opposed: 0; Motion carried.

It was explained to Svitak that this recommendation will go to the county commission for final approval.

Off agenda items: Avery asked about wind generator farms. I would think it would take a CUP, Unruh said. I think a development plan would be important to have and I think the

best option would be a CUP with requiring a development plan, Brazil said. Unruh told about a customer who had explored the option of a wind farm. They'll have to come before the planning commission and that's the reason I'd like to see a chapter addressing this, to streamline it for them, so they can see 1, 2, 3, 4 is required, etc., Brazil said. Avery questioned the timeframe for addressing this. Will it come to us before we address it?, Avery asked. It may, Brazil said. I think it's a positive use, but only if it's in an appropriate area, Brazil said. Unruh told about a large wind farm in western Kansas. Those are huge structures, he said. I'd estimate 200 to 225 feet to the top of the structure and I think I read the rotor was 75 feet, or so, and that's quite a ways up there, Unruh said. I'd estimate the base to be 12 to 14 feet square, he said. What I'm trying to find is somebody who has zoning regs for this, Brazil said. Unruh suggested trying Gray County. This is an asset we've got, we've got plenty of wind, but some are concerned about prairie chickens and this same group says to put them only on cultivated ground and not disturb our Bluestem Prairie, but from what I've heard it pays better than wheat and I've heard a Florida company is making a goldmine on this, so the money is leaving the state and I'd like to see it stay right here in Marion County, Ediger said. Eilerts asked Brazil to respond to Rabon's letter. Unrau made a motion to adjourn and Avery seconded the motion. In favor: 5; Opposed: 0; Motion carried and the meeting was adjourned at 8:38 p.m.

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Eileen Sieger,
Chairman