

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

RECORD OF PROCEEDINGS

September 28, 2000

Chairman Eileen Sieger called the meeting to order at 7:34 p.m., and determined there was a quorum.

Roll Call was answered by Sieger, Marquette Eilerts, Herb Bartel, Terry Eberhard, and Glen Unrau. Bob Unruh arrived at 7:36 p.m. Elora Robinson was expected to arrive late, but was absent, and Dean Fincham and Eldon Pankratz were absent. Zoning Administrator David Brazil was present.

Sieger asked for corrections to the Record of Proceedings for the August 24, 2000, meeting. There were no corrections. Unrau made a motion to approve the Record of Proceedings as written, and Eberhard seconded the motion. In favor: 5; Opposed: 0; Motion carried. Unruh arrived at this time.

Item 4: Continuation of an application for George and Sonja Gore requesting a Conditional Use Permit (CUP) for a 4-wheel drive mud run in Durham Park Township. George Gore was present to speak about the application. Sieger explained the public hearing for this application will continue at this time, as it was tabled from the last meeting to allow members to view the Marion Reservoir Water Plan, which members all now have copies of. Sieger asked Gore if he had any comments, and he said no. Unruh noted for the record that he will not enter into a discussion about this application due to a conflict of interest, and he did not participate in the discussion about this application at the previous meeting. Gore asked to see a copy of the reservoir plan. Members discussed the plan. Eberhard asked where this property is located on the map, and Brazil showed him. Gore said his pit is not in the flood zone, and showed members on the map where the pit is and where the flood zone is. Gore said no water drains out of the pit into any stream, there is no pollution, no oil, no pesticides, nothing. Sieger asked if fluids from the vehicles presents any danger, and Gore said no. Brazil said part of the property is in a gray area that has a one in one-hundred year chance of flooding. Sieger asked if the general slope of the property is to the south, toward the creek? Gore said that water

washes down his driveway. Members viewed photos of the property. Sieger asked about the Central Mud Boggers Association (CMBA) stipulations. Gore's brother, Glen Eickleberry, president of the CMBA, said they have specific guidelines and rules to go by. He did not give any specifics. We just had one in Abilene, right next to their water plant, and the city put it on, Eickleberry said. Sieger asked how far spectators are back from the pit. Eickleberry said 20 feet. Gore said Hillsboro businesses noticed an increase in sales after his last run. Eickleberry questioned oil contamination in the reservoir from boats, and also from cattle operation run-off, which is suppose to be filtered by a grass field before reaching the reservoir, he said. Unrau asked if this is an all day activity? Yes, Gore said, but they only allow you to have two a year. Unrau asked about the noise level. Gore said it is no worse than grain dryers and it is over before dark. Sieger asked if anyone from the public wished to speak. No one did. Then an Eastshore resident said that half the roads around the lake are dirt and when it rains they have a mud run all the way around the lake. Gore said this is a solution for pickup owners that want to go 4-wheeling, instead of tearing up county roads. Sieger asked where the public parks. On my property, Gore said. No road parking?, Sieger asked. No, Gore said. Eberhard asked where the nearest residence is. Gore said a quarter to a half mile away. Eberhard asked Gore if only two events are allowed per year, and Gore said yes. What about in between?, Eberhard asked Gore. Do you have practice runs?, Eberhard asked. No, Gore said. Gore said they used 3,000 gallons of water at the last run. Gore said he planned to buy water from Durham this time, because people complained about the water smelling. Sieger asked why there were no bathrooms at the last run. Gore said he is not sure, that we were assured they would be there. This time we're going with a different company out of Hutchinson, Gore said. Gore showed members signatures of support which he had collected. Two letters were entered into the record which were sent to the planning commission. One letter was from a neighbor to the east of Gore, voicing concerns in six different areas. The other letter was from another neighbor who lives within 1,500 feet of the pit, who also voiced concerns in several different areas. Sieger explained that this planning commission recommendation will go to the county commission for final approval, and they will not act on it before your next mud run. Eickleberry asked what will happen if we go ahead and have it? Eickleberry asked why no one contacted the CMBA about the zoning

requirements? Brazil explained that he read about the first event in the newspaper and then contacted Gore about going through the zoning process. Gore said his neighbor is never there, and is very unfriendly. He was at his house on the day of the last event, and his property was not obstructed in anyway, Gore said. Officer Tammy Gross was at the last event and she said there were no problems what so ever, Gore said. Is alcohol allowed on the premises?, Eilerts asked. Yes, but no one under age drinks and no drivers are allowed to drink, Gore said. How do you monitor that?, Sieger asked. Everyone knows to check and it's never been a problem, Gore said. Brazil told Gore he may want to address insurance and liability. Yes, I have insurance, Gore said. Sieger closed the public hearing for this application.

Sieger asked members if they wished to continue with this application, or go on. Members continued with this application. Brazil said members should consider land use and water quality. Brazil pointed out objective five, concerning maintaining and enhancing the quality of water in the reservoir. Brazil also pointed out a letter of support from the county commission, concerning protecting the water quality at the reservoir. Brazil said he is not sure if the pit itself is a problem, but said it could be, in reference to the surrounding environment. Bartel referred to page eight of the project implementation plan sheet, saying he wanted to emphasize the large proposed budget of \$280,000, which is public money being spent on the reservoir, which is now going through a rather comprehensive ground water study. Ground water feeds the streams and under certain conditions the streams feed the ground water, Bartel said. So, if you can imagine what real importance it is when you remove the surface vegetation, and you have put at risk the ground water, Bartel said. It's the same thing that goes on with landfills, Bartel said. What you do on the surface eventually effects the ground water, he said. So, even though you may not be near a stream at all, now you have a plan for substantiating that this is a ground water issue, and ground water is an issue to Marion Reservoir, Bartel said. Do you feel there would be a significant risk to the ground water?, Sieger asked Bartel. Yes!, Bartel said. When you remove vegetation you make it possible wherever contamination may occur, to put the ground water at risk, Bartel said. It sets a precedent that is not consistent with the neighborhood, and I think that noise is a factor, Bartel said. Unrau asked how long the pit has been there, and Gore said the

pit was made in July, 2000. Sieger commented that she understands there are a few problems with the mud run that was held in Florence. Gore said the neighbors had some problems with it. Eberhard pointed out that the CMBA should have been on top of this and informed Gore about the zoning in this county. The noise issue is an issue, but it's only twice a year and it's no different than living next to the football field or highway 50, Eberhard said. It is different because what you named are public facilities, Bartel said. Okay, then a grain dryer or a neighbor who brings in a load of baby calves that bawl all night, Eberhard said. Comes with the territory, Bartel said. We can make a decision, but our decision may not be a totally scientific decision, Eberhard said. If we could approve the next run and then get someone to monitor the site...., Eberhard said. We can't get approval for this in time, Brazil pointed out. I think for him and us both, we need more hard facts, Eberhard said. What about the precedent?, Bartel asked. If you cancel out all the other concerns, the precedent is a foot in the door that can have a very significant impact on an area, such as if something is successful it attracts additional things and if it fails you have a worse situation because you have to come up with substitute uses, Bartel said. I'm not condoning him having this, but if the paperwork could have been..., Eberhard said. It's the applicant's responsibility, Bartel said. That is the rule of law, Bartel said. Sieger asked Brazil if he wanted to make a recommendation? Eberhard said the FFA sponsors a 4-wheeler mud run. Yes, it's this weekend, and they used to have trucks, too, Gore said. No development should happen in the reservoir water shed, Brazil said. This puts water at risk, Bartel said. No development?, Sieger asked. Define development, Eberhard asked. Homes, businesses, roads, etc., Brazil said. Bartel made a motion not to recommend approving this application as it: 1) sets a precedent for the area that is not consistent with existing uses and characteristics of the area; 2) it is a use which generates noise at times that is a nuisance to residents in the area; 3) it is not consistent with the goal of enhancing and maintaining the water quality of Marion Reservoir; 4) our staff has recommended that uses such as these not occur in the reservoir area. Eilerts seconded the motion. Sieger asked how far the pit is from the water, and Gore said a half mile.

In favor: 3; Opposed: 1; Abstained: 2; Motion carried.

Sieger explained to Gore that the county commission will get a chance to act on this. Gore said he thinks monitoring the area to

see if there is a danger, is a good idea. You can't prove to me this will happen, and I can't prove it won't, Gore said. Monitoring will occur with the study, Brazil said. I'll take a sample to Tabor College after this mud run, and we'll see, Gore said. I'll be back, Gore said. Sieger explained applicants must wait a year before re-applying.

Item 5: An application for Eastshore Subdivision requesting a blanket variance from set back requirements. Members are now acting as the Board of Zoning Appeals. This application was published in the September 6, 2000, issue of the Hillsboro Star Journal. Bob Maxwell, Eastshore resident, acted as spokesman for the group. Currently Eastshore is zoned Village One and set backs are 30 feet from the front; 20 feet from the back; and 10 feet from the side, unless a street is on the side. Residents wish to return to set backs as designated in their 1969 plat, which are: 30 feet from the front; 10 feet from the back; and six feet from the side, unless bordered by a street. Maxwell said basically there are four different sizes of lots platted. By abiding by county set backs, there is a 22 to 33 percent decrease in the square footage of building sites, which limits the size of new structures. Maxwell said the original plat seemed to work out well. This reduction in size is really going to limit any further development, Maxwell said. Sieger asked how many lots are still vacant. Maxwell estimated 25 vacant lots at this time. Unruh asked about the traffic count. About 115 people permanently out there, Maxwell said. Weekends there are 200 or so, additional, Maxwell said. Do you predict this would increase the population?, Unruh asked. Is there an economic benefit?, Unruh asked. If someone comes in and builds a new home, it benefits all of us, if you ask me, Maxwell said. There's not a lot of children out there, there's a lot of retired folks, Maxwell said. Unruh asked about the sewer system. It seems to work well, Maxwell said. Is there the capacity to handle additional homes?, Unruh asked. I'm not sure, Maxwell said. Another Eastshore resident said there are several plans to remove old homes and build new ones. Larry Cameron, an Eastshore resident, said the quality of buildings has increased. We've not added more people, but we have higher quality housing, Cameron said. If you insist on small easements, it will resort back to small trailers, Cameron said. Sieger explained this will be a final action, as members are acting as the Board of Zoning Appeals. It would seem to me that the enforcement would shift from the county to the homeowner's

association in case of disputes, so if you get into a squabble, you work it out, out there, Bartel said. Is there any objection among the neighbors?, Unruh asked. One person called Brazil with a question, and they were satisfied. Rick Schulz, Eastshore resident, said he recently got a variance and said he can see where if you continue with the new set backs, you will have more problems because everyone is used to the old way. If I didn't apply for a building permit, I wouldn't have known (about zoning), Schulz said. Eilerts said this was the first improvement district to be organized in the county, in August of 1969. I worked closely with the improvement board out there and I would rather see the variance now rather than have each person have to come in, because in the past it has worked very well, Eilerts said. I would like to have the book and page in which the Eastshore Subdivision was registered, Bartel said, in order to be specific. Sieger closed the public hearing for this application.

Members continued their discussion of this application. It makes sense to work with existing development, Unruh said. Unruh made a motion to approve the Eastshore Improvement District #1 for a blanket variance from set back requirements. Unruh seconded the motion. In favor: 6; Opposed: 0; Motion carried.

Item 6: An application for Edward Burnett requesting a variance from set back requirements in Center South Township. This application was published in the September 6, 2000, issue of the Hillsboro Star Journal. This property is located at Marion County Park and Lake. Currently there is a 1959 trailer with a sun room on it, on the property, which the applicant wishes to remove. Edward Burnett was present to explain he is asking for a variance from the 20 foot set back requirement. He said he has neighbors with 15 and 16 foot set backs. He said he does not plan on coming out to the set back, but wishes to allow himself adequate room as there is some rock in the area, which may call for adjustment. He is asking for a variance from 10 to six feet on the side. He wants to put a 36 foot-wide structure on the property. He may add a garage in the future, if he uses the property for retirement. Sieger asked what kind of structure he is planning. A stick building, Burnett said. If I put it in this position, I won't have to remove a tree or move the sewer, he said. Is it hooked up to water?, Sieger asked. I haven't hooked up yet, but the meter is in place, and I do plan on hooking up when I'm building, he said. Sieger asked if anyone wished to speak from the public, but

no one did. Bartel asked what happens to the existing structure? I will tear it down and try to sell the frame to someone, Burnett said. Units that old cannot be relocated in the county, Bartel said. No, I understand, Burnett said. Anything further?, Sieger asked. Sieger closed the public hearing for this application. Burnett said he has had the lot surveyed.

Eilerts made a motion to approve a variance to set back requirements, no more than 10 feet from the front, no more than four feet from the side, and no more than eight feet from the rear. (Eilerts original motion was for 10 feet from the rear, but it was pointed out that the applicant had requested eight feet from the rear. Eilerts asked Brazil if eight feet is a problem, and he said no. So, Eilerts amended her motion to eight feet, as requested by the applicant.) Bartel pointed out that Eilerts should consider adding "for a new structure" to her motion, and Eilerts amended her motion again, for property located E1/2 SW1/4 10-20-4, in Center South Township. Unruh seconded the motion. In favor: 6; Opposed: 0; Motion carried.

Burnett said the rear of his property is Rock Road, so no other structures are close. Sieger explained members are acting as the Board of Zoning Appeals, so this is a final action and it will not go to the county commission. Sieger commended Burnett on having a good diagram of his plans for members to view.

Item 7: An application for Lauren and Glenda Watkins, requesting a variance from set back requirements at Eastshore. Sieger reminded that members continue acting as the Board of Zoning Appeals. This application was published in the September 6, 2000, issue of the Hillsboro Star Journal. Contractor Allen Church was present to speak for the Watkins. Church said they need a one foot variance into a six foot set back. The blanket variance took care of most of it, but we need one foot, Church said. He explained plans are to construct a garage beside the house and they need one more foot. Is the garage to be attached to the house?, Sieger asked. No, free standing, Church said. Since the other action happened, we need to just take action on the foot, Sieger said. Sieger asked if anyone wished to speak from the public, but no one did. Sieger closed the public hearing for this application.

Sieger opened the floor for discussion of this application. Did the homeowner's association look at this?, Bartel asked. No,

Church said. Do they usually?, Sieger asked. We've never had anyone look at anything before, Church said. The homeowners really have no power, Maxwell said. Why do you need a foot, again?, Bartel asked. The house is too close to the property line, Church said. I have no problem with it, Unruh said. I would have a concern about approving it, if the homeowner's association wouldn't endorse such an action from us, Unruh said. How far are we going to go?, Bartel asked. Eberhard asked if everyone living in the notification area for this application received notice, and Brazil said yes. No one is here to object, Eberhard said. Brazil explained they are going to start putting a longer explanation of what the applications involve, in the notices. Sieger said it would be good to also include the address of the property. The idea of a blanket variance is to avoid this situation, Bartel said. And for me, personally, I like to go look at it, but I'll go for a foot, but no more than a foot, Bartel said. The side would be five foot instead of six foot, Sieger explained. The rear would be okay with the blanket variance, Sieger added. Brazil recommended viewing the Eastshore Development covenants plat. Brazil recommended staying with the blanket variance. Bartel said he sympathizes with Brazil, because when you start something... Eilerts made a motion to approve a rear yard variance of no more than 10, and no more than five feet on the side. Sieger pointed out that members need to address only the side. Eilerts amended her motion to approve a side yard variance of no more than five feet. Eberhard seconded the motion. In favor: 6; Opposed: 0; Motion carried. Sieger explained this is a final action.

Item 8: Discussion with Kim Reyer about land being used for captive deer hunting. This applicant was not present. Sieger said this first came to light when Marvin Peterson spoke to her about this, wondering about if a CUP is needed. The information I was given was this applicant purchased a 200 plus acre area and fenced it with deer fencing and brought in genetically superior deer. Is it for bow and arrow hunting?, Bartel asked. Sieger did not know. Plans are eventually to charge people to hunt there, Sieger said. It is suppose to be handicap accessible, Brazil said. I understand it was actually purchased by someone from Texas, Sieger said. He wanted to discuss it, first, Brazil said. Did he know the date, time and place for this meeting?, Sieger asked, and Brazil said yes. This property is located near the quarry at Florence, near the dead end. Members viewed the

property on a map. They believe it is in Doyle Township.

Brazil announced he has set up a second public meeting for the comprehensive plan on Monday, October 30, at 7 p.m., in the Marion High School/Middle School Commons. Next month's meeting is October 26, and there is only one application on the agenda. Eberhard made a motion to adjourn and Eilerts seconded the motion. In favor: 6; Opposed: 0: Motion carried and the meeting adjourned at 9:47 p.m.

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS



Eileen Sieger,
Chairman