

MARION COUNTY PLANNING COMMISSION
FEBRUARY MEETING, FEBRUARY 25, 1993

Record of Proceedings

Item 1: Chairman Ammeter called the meeting to order at 7:33 PM.

Item 2: Roll call was answered by Eileen Sieger, Dean Fincham, Lewis Unruh, Sherwin Ammeter, Clark Wiebe, Marlin Janzen, Terril Eberhard, and Dorman Becker. W.M. Pierce was not present. Also present was Herb Bartel.

Item 3: Chairman Ammeter called for nominations for Chairman for the coming year. Terril Eberhard nominated Sherwin Ammeter. Chairman Ammeter then called for further nominations for Chairman. Dorman Becker moved that nominations cease. Motion seconded. All in favor. Motion passed. Sherwin Ammeter was elected unanimously. Chairman Ammeter then called for nominations for Vice Chairman. Clark Wiebe moved to cast a unanimous ballot for W.M. Pierce for Vice Chairman. Seconded. All in favor. Motion passed.

Item 4: Rezoning and Variance, Duane Goering Estate, PT SW1/4, 18-20-1, A-Agricultural to RR-Rural Residential: Herb Bartel opened each zoning application by making reference to the legal notice. Also that adjacent property owners and McPherson County have been given notices of the

application and hearing. Also that the applicant is responsible for putting a notice on the property until after the hearing. Procedure was reviewed. The Planning Commission makes recommendations on an application to the County Commissioners and they make the final decision.

Regarding the Duane Goering Est. application Herb Bartel indicated a request to change from A-Agricultural to RR-Rural Residential. He then described the property location. RR is a 10 acre district. This application is not for 10 acres as the boundary of the farmstead falls short of 10 acres. Thus the variance is for approximately a 3 acre lot size. The applicant will need to specify this in his presentation. RR has a minimum frontage that will be affected by this smaller than minimum lot. The Applicant needs to explain the purpose, intended use, and why the parcel is the size it is. The Planning Commission needs to discuss the dimensions and other possible variances.

Mr. Bartel explained that he will not speak for any applicant. He will be available to assist after the applicant has made his presentation. He then drew attention to a handout from the Regulations that list items and points for consideration in zoning changes. Mr. Bartel then gave the Planning Commission information regarding zoning a variance. He explained the procedure for hearing the applicant's presentation, audience participation, and Planning Commission discussion.

Chairman Ammeter asked the Item 4 applicant, the Duane Goering Est. to proceed with their presentation. Virgil Goering appeared representing the landowners Duane and Neva Goering as Tenants in Common. Mr. Goering has been given the authority for sell the land for Neva. Gary D. & Pamela Shaydon want to purchase the land to use as a homesite. They are buying 3 acres more or less and they need the Planning Commissions approval for rezoning and variance to close the sale.

Chairman Ammeter asked for the dimensions of the property. Clark Wiebe asked why they were applying for RR instead of SR-Suburban Residential. Mr. Goering replied that when the sale was initiated, Marion County had no zoning in effect. When he contacted Herb Bartel he was told this was the classification that he needed. Herb Bartel indicated the dimensions of the property was: 329 ft by 397 ft. Eileen Sieger asked if this property was on the corner of the section. Mr. Goering replied that it was 309.7' south of the west 1/2 mile point of the section. There was discussion to discern the exact location within the section. Eileen Sieger asked for a clarification on access. Sherwin Ammeter indicated that the road servicing the property was maintained by a McPherson County Township.

Ammeter asked if there were any further questions. Mr.

Bartel found the property on the zoning map for Planning Commission inspection. The property was not originally described as RR because it did not have a residence on it. It is a vacant farmstead without a house. He also explained that in addition to the required public notice, a notice was sent to McPherson County and residents within 1000' on the Marion County side. Mr. Bartel has had no responses or calls on this application. Clark Wiebe asked why were the applicants applying for RR and Variance rather than SR. Mr. Bartel explained that the smaller classifications were intended to be adjacent to towns and that the uses become more urban in nature. Dorman Becker asked if the property was on rural water. Mr. Goering replied not right now, but the buyers had made application for rural water. Herb Bartel asked if the buyers were present. Goering - No. Chairman Ammeter asked for further questions. Eileen Sieger asked about the size of properties in the same section. There followed discussion regarding location and size relationship to other parcels in the same section.

Chairman Ammeter asked if anyone wanted to speak in opposition to Rezoning and Variance for the Duane Goering Est.. There was none. The Chairman then asked about the Planning Commission options. Mr. Bartel indicated that some Planning Commissions hear all cases before making recommendations. They then go back and go over the cases after the hearings are closed. The choices are to review

each case further or keep the hearing open and go on to the next item on the agenda. Clark Wiebe - since this parcel is 7 acres below the recommended acres for RR, if granted are there other conditions that would effect size restrictions? Herb Bartel - this parcel is below the minimum measurements for frontage. Mr. Wiebe - what operations will be allowable on this tract? Herb - RR allows horses, small fowl, etc., but if the new owner wants to farm this parcel needs to remain zoned agricultural. My understanding is that the new owner does not farm. It will be a homesite. Mr. Goering indicated that the buyer's intent was not to farm at the present time. He had asked, however, for the option to buy up to 40 acres total in the future.

Clark Wiebe had a question regarding re-sale and how this rezoning and variance would affect a new owner in the future. Mr. Bartel replied that if the zoning goes with the land and the property was sold to someone who farms or wanted to farm, the new owner would want to re-zone to A-Agricultural or apply for other variances or conditional uses. Mr. Wiebe posed that if a new owner wanted to put in a hog operation, would that be permissible. Mr. Bartel - not on RR. Marlin Janzen had questions about the sanitary code if the buyer builds a new home. Mr. Becker sited that 3 acres meets the regulations for either a septic system or a lagoon. Chairman Ammeter suggested that the Planning Commission go through all the applicants before closing the hearing. The members of

the Planning Commission agreed and asked if there were any other questions on item 4. There were none.

Item 5: Rezoning and Variance, Clinton/Shirley Soloman, PT NE1/4, 21-21-3. Chairman Ammeter introduced Item 5 and asked Mr. Bartel for briefing. Mr. Bartel cited the published notice and the location of the property. An additional 3 acres is being purchased and the applicant wishes to zone his entire parcel the same. This request includes an existing residence. Mr. Bartel indicated the parcel and the surrounding area on the map. Chairman Ammeter asked for the applicant to respond, no one appeared. Eileen Sieger questioned the total size of the parcel. Mr. Bartel explained that the applicants have 3 acres and are buying 3 more. The existing property is now zoned RR as part of the initial zoning. The only change in zoning is on the additional property being purchased. Marlin Janzen asked why they wanted the new property re-zoned. Mr. Bartel - this would make the entire parcel more attractive because it would all be zoned the same. Mr. Wiebe asked if the Planning Commission could continue this item until they had a chance to talk to the applicant. Chairman Ammeter asked if there were any opposed to this change. There was no response. Chairman Ammeter asked for any further discussion. Chairman Ammeter - if anyone wanted to add a second house on the new 3 acres, how would that fit regulations. Mr. Bartel replied that would not meet RR requirements. Clark Wiebe

recommended no action on this item until the Planning Commission could talk to the applicant. He suggested to continue this item to the next regular meeting, to which the Commission agreed.

Item 6: Rezoning and Conditional Use, Rudolph Newfield, SE1/4, 4-21-4. Chairman Ammeter introduced item 6 and turned the floor over to Herb Bartel for briefing. Mr. Bartel indicated the public notice and gave the description and property history. The property has been used in the past for gravel extraction and still carries a gravel lease held by Martin Marietta to Mrs. Allen. This lease runs another 4-1/2 years and runs with the property. In the event the property changes hands, the new owners would become owners of the lease with all it's existing terms and conditions. At present this property has no Conditional Use for gravel extraction because when the zoning was being put in place there was a sign on the property that indicated the pit was closed for gravel extraction. As far as the County is concerned, any new excavations would require an application for Conditional Use. The applicant wants to apply for Rezoning and Conditional Use before closing on the purchase of the property. The surrounding area is zoned A-Agricultural. Chairman Ammeter pointed out that the application for this property was signed by the owner even though she was not present. Clark Wiebe wanted clarification on the request. Mr. Bartel indicated it was for a zoning

change to Light Industrial with a Conditional Use for a salvage yard.

Chairman Ammeter asked Rudolph Newfield for his presentation. Mr. Newfield indicated that the new highway project was displacing his business at it's present location. He felt this property was an ideal location to store some of his inventory. He indicated he might put up a mobile home at the sight to stay in some of the time. Chairman Ammeter questioned the state regulations for salvage. Mr. Newfield stated that the state regulations did not apply to anything over 1000' from the road, and that he would not require a license. The primary use would be for storage of slavgaged cars and trucks. Eileen Sieger asked if the state checked his business at it's present location. He indicated yes, they did. Mr. Newfield was then asked what type of materials he dealt in. He reply was mostly cars, no iron. He stated he would probably move only one-half of his present inventory to the site. Chairman Ammeter asked if he was going to put up a permanent residence at the site. He indicated that he was undecided at the present time but that he would like that option. Chairman Ammeter asked about the minimum area he planned to use. Mr. Newfield - not the whole quarter section, plans are to go up to the north fence. He stated he was not planning on expanding his operation and pointed out that about one-half of the land cannot be used because of the pits. Dorman Becker asked about the Martin

Marietta lease. Mr. Newfield - some of this hinges on them and what they decide to do. Mr. Bartel repeated that Mrs. Allen is the lease holder with Martin Marietta. The applicant would receive the Martin Marietta lease with the purchase of the land. Chairman Ammeter asked if this zoning and conditional use application was for the whole quarter. Mr. Bartel indicated yes, and pointed out that with industrial zoning on the entire 160 acres, the county could end up with a 160 acre salvage yard, if not now, then possibly in the future. Chairman Ammeter indicated that the Planning Commission may consider recommending changing a parcel less than the requested 160 acres. Clark Wiebe asked if Martin Marietta could displace the salvage if they reopened and found it not compatible to their operations. Herb Bartel indicated that the Planning Commission would need assurances on both the applicant's part and Martin Marietta's part that the area would not have been zoned for salvage and then Martin Marietta would ask for conditional uses in the same location. Mr. Newfield is saying that he would only be using approximately 25 acres for salvage. Mr. Eberhard asked about the possibility that Martin Marietta would agree to release that area from their lease. Eileen Sieger asked Mr. Newfield if he operated the salvage yard by himself. His reply was that he worked mostly by himself, occasionally one of his sons helped. Eileen Sieger asked what would happen to the salvage materials if he were to retire. His reply was that it would probably be sold off. Presently he plans to

move approximately 300 cars to the Allen location, pending settling with the state highway project. Eileen Sieger asked about the salvage procedure on cars that he brought in, re: anti freeze, batteries, freon, etc. Mr. Newfield replied that he recycles the anti freeze, sells the good batteries, and drains the air conditioners per regulations. He stated that the EPA has checked his operations at his present location and he has passed inspection. Eileen Sieger asked if the EPA checked the ground water. Mr. Newfield replied that EPA took ground samples and nothing was found so they did not need to check the ground water for pollution. Chairman Ammeter asked how often the state checked his operation. He replied once a year. He said they were being more thorough now because they are buying the ground and don't want any contaminated ground.

Chairman Ammeter asked if there were any further questions for Mr. Newfield.

Herb Bartel addressed the fact that the state has regulations of all kinds in other areas. Example: signs. The state regulates signs along the highways. If this salvage operation needs a sign on highway 50, the state will refuse. Also, burning for salvage is prohibited by the state. Also, the state has restrictions regarding used anti freeze, used oil, etc. on the ground. He pointed out that at this location all the water comes from ground water, whereas, the

applicant's Peabody location has a municipal water system available. Chairman Ammeter asked for anyone else in favor to address the Commission. No response. Next he asked for those opposed. Mr. Bartel has a call from a property owner to the west of the property in question. It is an 80 acre parcel that depends on ground water. The owner wanted assurance about ground water pollution. They also wanted to know if the County changed the use of the Allen property, would that affect taxes on the adjoining properties. Jackie, Mrs. Walt, Hett then took the podium. She indicated they rent the Williams pasture north of the Allen property. Their landlady is in Colorado and she called and asked Jackie to express her concern over ground water quality and stock ponds, etc. Forrest Smith, representing landowner Eloise Jost, spoke next. Mrs. Jost's property is in the NE 1/4 of this section- a pasture to the north of the Allen property. She is concerned about ground water contamination. She also has questions on the quarry lease and the fact that the salvage would be placed at the north end of the property right next to her pasture. Jay McClure, Florence, spoke next. He has 1/2 section of grass across the road from the Allen property. It has 2 wells that have been tested and are good wells. He stated he would hate to see anything ruin those wells. He had no objection to the salvage yard if the ground water is not contaminated.

Chairman Ammeter asked if anyone else wished to speak. No

response. He then asked if there were any questions from the Planning Commission. Herb Bartel pointed out that at this point, with no other information being offered from those present, the Planning Commission could close the public hearing on items 4 & 6. Item 5 could be continued with no further publication. Chairman Ammeter asked if the hearing was closed, could the Commission ask for additional information. Mr. Bartel responded that they could. Terril Eberhard asked if the Martin Marietta lease was recorded. Clark Wiebe indicated he would like to see the lease re-recorded, pinpointing the location for salvage. Mr. Bartel indicated Martin Marietta has not been notified of this application. It is not required to notify lease holders. Chairman Ammeter said he felt the salvage should be restricted to a certain specified area. Clark Wiebe wanted to know if the Planning Commission could ask for soil testing and percolation on this ground. Chairman Ammeter asked Mr. Newfield if his operation would be located in the area that has not been quarried. Mr. Newfield indicated he would use approximately 25 acres of unquarried land. Mr. Eberhard commented that if this land is re-zoned, it could be sold to someone that would not be so careful. Mr. Wiebe stated he was under the impression that the cars would be located in the pit, out of sight. He understands now that this is not the case. Chairman Ammeter indicated that he felt the Planning Commission would want the conditional use tied to a specific area. He asked what would be the minimum acres to

act upon. He was told it was not specified at this time. Clark Wiebe pointed out that Light Commercial use is not limited to salvage. Also, since the cars would be visible, would the adjoining landowners be concerned about valuation decrease. Jay McClure asked that if this property use were changed to Light Commercial, would taxes go up on his pasture because it joined a commercial property. Herb Bartel indicated property is taxed according to it's present use. Forrest Smith, representing Mrs. Jost, indicated that devaluation was a concern.

Clark Wiebe asked if the Planning Commission could continue item 6 and request additional information in 30 days. For example: a release from Martin Marietta on a specific boundaried portion of the property. Chairman Ammeter asked if the Commission would have to have a legal survey. Clark Wiebe indicated that the units of measurement would be the responsibility of the leasee and the property owner. Mr. Eberhard questioned the re-zoning request without the request being from the owner. Mr. Bartel indicated that the owner's signature was on the request. Chairman Ammeter questioned if the Re-zoning and Conditional Use was granted, could the property only be used for salvage or were there other uses covered under this classification. Mr. Bartel explained that anything allowed under the Light Industrial classification would be permitted. Mr. Eberhard had a question regarding access if only a portion of the property were to be re-

classified. Mr. Bartel explained that even though the conditional use was restricted to a certain portion of the property, Mr. Newfield would own the entire quarter and therefore access would not be a problem.

Chairman Ammeter asked if the Planning Commission was ready to consider Items 4, 5, & 6. Mr. Wiebe asked to stay with Item 6 for now. He asked if the Commission could request information on soil conditions. Mr. Bartel indicated that they could request a soil profile and a recommendation by a qualified person as well as a release from Martin Marietta. Mr. Eberhard indicated he would also like to see information regarding the general direction of drainage on the property. Mr. Wiebe asked if Item 6 is continued and the Commission receives no results in 30 to 60 days, what is it's status. He was told there would then be no action. Item 6 remains an open issue at this time. Chairman Ammeter asked Mr. Newfield if he understood what the Planning Commission was asking for. Mr. Newfield replied that he did not want to be tied to not being able to use the entire property for whatever he wanted. Chairman Ammeter explained that he felt the Rezoning and Conditional Use needed to be restricted to a certain portion of the land. He then asked Mr. Bartel if Martin Marietta asked for a Conditional Use, could it be used for anything but a quarry. Mr. Bartel replied that it could not. He also pointed out that Martin Marietta needed to release the area intended for salvage in order to avoid a

conflict with their lease area and any future excavation.

Mr. Wiebe indicated that the Planning Commission needed to specify what information it wants. If this information is not received or is not acceptable, the Commission will have no choice but to deny the application as it now stands.

Chairman Ammeter indicated that a certain area not to exceed 25 to 30 acres needs to be presented with a lease release from Martin Marietta. Mr. Wiebe pointed out that Mr. Newfield could always re-apply for a Conditional Use on the remaining areas if the Martin Marietta lease is ever terminated. Marlin Janzen indicated he would want to specify a certain area only or request the applicant to specify the area to be used. Mr. Wiebe indicated to Mr. Newfield that the Planning Commission would need a description of the area applied for, a lease release of that area from Martin Marietta, a soil profile done by a qualified technician for said area applied for. This information will be the responsibility of the applicant.

Chairman Ammeter announced that the Planning Commission will continue Item 6 until the next scheduled meeting. Item 5 will be continued until the Commission can talk with the applicant.

Clark Wiebe moved to close the hearing on Item 4. Eileen Sieger seconded. All in favor. Motion passed. Hearing is

now closed on Item 4.

Chairman Ammeter opened the Commission to proceed with action on Item 4. Mr. Bartel asked the Commission to look at the Regulations for anything that would affect their recommendation. Mr. Wiebe asked for specifics on RR and on what is allowed, setbacks, etc. Mr. Bartel indicated that the frontage was not adequate on this property and that there were a lot of accessory uses permitted. A manufactured home (minimum width of 22ft.) would be allowed as a residence as specified in the Regulations. Chairman Ammeter asked if there would still have to be a permit issued for any home construction. Mr. Bartel replied that there would have to be a permit and referred the Commission to page 89 of the Regulations for a list of accessory uses. There was discussion on the 10 acre size for RR versus this smaller parcel and an existing farmstead versus new development. Lewis Unruh asked if the boundaries included all of the old homestead area. He was informed that it did. Chairman Ammeter asked the Commission if they wanted to take action on this application or continue it. Clark Wiebe moved to recommend to the Board of County Commissioners to grant the application for Rezoning and Variance applied for by the Duane Goering Estate in reference to PT SW1/4 18-20-1. Lewis Unruh seconded. Chairman Ammeter asked for discussion. No response. He then asked for a vote in favor. All in favor, none opposed. Motion passed. Planning Commission will

recommend granting Rezoning and Variance for agenda Item 4 to the Board of County Commissioners for their consideration. Mr. Goering asked when he could expect County Commission consideration. He was told it should be within 30 days.

Chairman Ammeter asked if there were any off agenda items. Clark Wiebe asked that the Planning Commission notify land owners further than 1000 feet when an application is received. Dorman Becker suggested that landowners within 1 mile be notified in rural areas. Mr. Bartel indicated this would be possible.

Chairman Ammeter asked Mr. Bartel for information on the landfill situation. Mr. Bartel reported that requests for proposals have issued asking for two alternatives: a transfer station or conversion of the landfill to a facility that meets design and operating requirements. He indicated it is a matter of which alternative is the least expensive. Eileen Sieger asked if there was any proposals concerning re-cycling from the Joint Committee. Mr. Bartel indicated that the Committee is having to look at the short term solutions because of the October 9, 1993 deadline on the Federal Regulation. The long term goals are waste reduction. The Planning Commission engaged in a general discussion on re-cycling and solid waste issues.

Chairman Ammeter asked for a motion for adjournment.

Dean Fincham so moved, Dorman Becker seconded, all in favor.
Meeting adjourned at 9:36 PM. Next scheduled meeting is
March 25, 1993.