

MARION COUNTY PLANNING COMMISSION

**RECORD OF PROCEEDINGS
MARCH 28, 1996**

Chairman Sieger called the meeting to order at 7:30 p.m.

Roll Call was answered by Clark Wiebe, Marlin Janzen, Dorman Becker, Bud Pierce, Eileen Sieger and Don Fruechting, Terry Eberhard will be late, Herb Bartel was in attendance. Dean Fincham was absent, Sherwin Ammeter was absent.

Eileen Sieger stated she wanted to add to Item 10, off agenda items, a discussion of the April 11, 1996 concerning procedures.

Eileen Sieger asked if there were any changes to the agenda. Herb Bartel stated there were changes. Item #9, Rufus Unrau called asking for his application to be withdrawn. Herb Bartel stated that his withdrawal would be put in the record. Herb Bartel also requested that the record show who filed application and when the application was filed. Herb Bartel asked Karen Hurt if she had recall of that application. Eileen Sieger asked if the application was made direct by Rufus Unrau. Karen Hurt stated no, a phone call was received on Friday from John Dalke, Delores Dalke's son asking if Delores Dalke from the Real Estate Center could turn in an application on Monday to be published in time for the April Planning Commission meeting. John Dalke was told that Friday was the deadline to publish in the paper. Delores Dalke requested that Karen wait until Monday at 8:30 a.m. That request was granted. The Rufus Unrau application was dropped off at the Planning Office on Monday at 8:30 a.m. by John Dalke.

Herb Bartel stated he had another item to report. Herb stated that the application east of Tampa, the Clemmer application, originally to change 2 acres, then amended by the applicant as a 5 acre rural residential request. Herb talked with the buyers and the buyers indicated they have purchased the entire 40 acres and did not want to pursue the zoning. Zoning has not gone to the Board of County Commissioners. Eileen Sieger asked if these were the original buyers of record. Herb stated no. Current owner is John Stuchlik. Eileen Sieger asked if there were any further changes or additions to the agenda.

Eileen Sieger asked for corrections or additions to the minutes of the February 22, 1996 meeting. Eileen stated that one word on page 3, paragraph under item 7 needed to be changed. Word

"living" should be "moving". Eileen asked for official copy of February 22, 1996 minutes to be signed. Dorman moved that the minutes of February 22 be approved as presented and corrected. Bud seconds. **In Favor: 6, Opposed: 0. Motion carries.**

Item #4 - Tabled application for John Craft rezone. Notice was re-published March 6, 1996 with rezone request. Mr. Craft was not in attendance. Eileen stated that the application is the same without the variance. Herb stated it is now 10 acres. Eileen stated for members to see page 132 and 133 of the Regulations for factors to consider as guidelines. Herb stated that acting on the application last time, as 10 acres, was not possible as we had published it as a smaller application and request for variance. Herb also stated that the Planning Commission can approve for less than has been applied for and noticed, but not more. Eileen Sieger stated that on page 5 of the minutes, the motion was to recommend the rezone be granted, but the variance be denied for the reasons stated. Eileen asked if the recommendation for rezone had gone to the County Commissioners. Herb stated it had not gone, because the next step is to publish. Eileen stated it was moved to grant the rezone. Clark Wiebe asked if there was a study or recommendation from the administration on this. Herb Bartel stated yes, as a 10 acre sight. Eileen asked if there was anyone present to speak on the John Craft application. No response. Eileen asked if anyone wanted to make a recommendation now. Eileen also stated there was no new information to present. Eileen stated that Clark and Don were not present when this application was heard and asked if they needed any further information. Clark asked if the house had already been moved. Herb stated that the original permit was issued on the basis of a 48 acre tract. Herb also stated that there was an application to pull 8 acres out of the 48, there were property owners that objected to 40 acres remaining, that it would be eligible for an administrative permit and another house. Clark asked what objection the surrounding property owner had. Herb stated that he didn't want two houses, he did not object to one house on the old homesite. The property owner was concerned about flooding and water backing up in that area. Clark asked about other buildings on the property. Eileen asked if members wanted to make a recommendation at this point or hold it for later? Marlin moves that we recommend the rezoning of this particular tract of land from AG to RR, there are other properties in the area used in the same manner, next to an improved road. Don seconds. **All in favor in recommending this rezone from AG to RR: 5. Opposed: 0.** (Clark abstains - not enough information). **Motion carries.**

Item #5 - Tabled application for Robert Studer, rezone from AG to RR. Applicant stated that he has 52.3 acres and wants to rezone

12.3 acres to RR. Eileen Sieger asked if property was surveyed. Applicant stated yes, and property runs right up to the Corp of Engineers right-of-way. Eileen asked if applicant was living on the property. Applicant stated he stays in Wichita, but receives mail at the property address. Applicant stated there are two residences, one on the 12.3 parcel and one on the other parcel which is being rented out. Dorman asked the name of the renter. Applicant stated renters name is Ronald Johnson. Dorman asked if there were vehicles and rock located on the part of the Corp of Engineers area. Applicant stated no. Herb stated what was probably seen was county road equipment. Clark asked if there was a burned or an urban house on this property. Applicant stated yes. Clark asked which tract. Applicant stated on both. Clark asked Dorman if he was acquainted with the houses. Dorman replied, somewhat, it's east of the cemetery. Clark asked applicant if they were completely finished. Applicant stated his part was done, he doesn't plan to do any further building on either structure. Eileen asked if the 40 acres was grassland. Applicant stated it was grassland and that it is being used by the people that live there. Applicant wants to sell 40 acres and retain the 12.3 acres. Herb asked if the access to the 12.3 acre parcel is across the 40 acres. Applicant stated yes. Eileen asked if the applicant sells the 40 acres, what access are you going to have. Applicant stated that an easement will be a condition of the sale. Herb Bartel stated that basin picks up water from the west, and it would not be practical to cross that way due to the volume of water that comes through on the lower end of the property. Herb also stated that the current access is the best for this situation. Eileen asked if there was someone interested in purchasing the 40 acres.

Eileen called for speakers on this application. Ron Johnson stated he lives on the 40 acres and plans on raising horses and cows. Ron Johnson stated that he is the interested party in buying the 40 acres. Dorman asked Ron Johnson if he was employed by the County Road Dept. Eileen asked Mr. Studer what kind of water supply for the property. Mr. Studer stated there is a shallow well right on the line about 300 feet from the house. Ron Johnson stated that the 40 acre plot has two wells, one with a pump and the other a hand draw.

Eileen asked if there were any other speakers. Dorman asked Ron Johnson if that was his father that lived with him. Ron responded yes. Clark asked if this would constitute the first split off this property, what are the regulations. Herb Bartel stated that this was the first split after zoning. Clark asked again what the regulations were on the remaining portion. Herb stated the 40 acres would remain AG. Herb stated that without zoning, we would have one non-conforming lot, where now we have

none. Herb also stated that if the 40 acres is sold, it still conforms with the zoning and permits can be issued; without the zoning, the 12 acres would be a non-conforming lot and we could not issue an administrative permit; because the residence was already there, could be repaired and the interior remodeled without changing zoning. Eileen asked if Herb had any recommendations. Herb stated he would like to go over some other ownerships and go over some other things; the next property owner after this property is Scully, which takes you all the way over to my place. Eileen asked if there were any other questions. Eileen declared the public hearing closed for this application.

Applicant was told by Eileen and Herb that he could call in the morning for the Planning Commissions recommendation.

Item #6 - Calvin Jost conditional use application for rural sports. Eileen asked members to refer to page 133 of the regulations.

Terry Eberhard arrived at 8:20 p.m.

Eileen asked for file on Calvin Jost application and asked applicant Calvin Jost to explain his plans for having a rural sports facility. Calvin Jost passed around aerial photo of his property to the south west. Calvin stated he has three boys interested in hunting and fishing; over the past years, outlets to order equipment for these sports are disappearing; he wants to use a 20' x 30' for ordering bows, fishing equipment through his facility. Calvin stated stocking for this facility would be minimal. Eileen asked how many acres total. Calvin responded there are 120 acres, they live and farm on the property; his wife has a beauty salon on the property. Applicant stated he is 2 miles south and 1 mile west of Hillsboro. Applicant also stated that the walls are block and building is very secure. Clark asked applicant if he had any close neighbors and do they know what he is proposing. Applicant stated that there is one neighbor across the road and yes they do know. Applicant talked to neighbors within 1/2 mile, there were no objections. Eileen asked how much traffic applicant expected. Applicant stated he did not expect much traffic, business will be done mainly by appointment. Applicant stated that this is primarily a hobby. Applicant's neighbor to the east, Dean Whitt, stated he was not concerned about the traffic and that the beauty salon would probably have more traffic. Eileen asked if the road was rock. Applicant responded yes. Terry asked about restroom facilities. Applicant stated he wasn't aware of needing a restroom. Herb stated that if the Feds get involved in any way, they check with the county to verify zoning approval. Herb stated this is the kind of diversity that he likes to see in the rural areas; he

wanted to repeat so that the realtors would not think he is against everything. Herb has no hesitation in recommending this to the commission. Clark asked if the applicant was going to apply for a federal firearms license. Applicant responded he probably would. Eileen asked if there were any further questions. Dean Whitt, Applicant's neighbor is in favor of this facility. Eileen declared the public hearing closed for this application.

Item #7 - Wade Dickerson conditional use application for machine shop. Applicant stated that he planned to establish a precision machine shop, operate out of existing buildings on his property. This property was a dairy before Applicant purchased. Applicant stated that no changes will occur to this property and no new construction. Eileen asked how many buildings Applicant planned on using for the machine shop. Applicant stated, hopefully one. Eileen asked if the Applicant was intending to employ others. Applicant responded no. Eileen asked what type of machine shop the Applicant planned on opening. Applicant responded, aircraft, numerically controlled machines, computer machines, contract machine service. Applicant stated nothing would be located outside the buildings.

Eileen stated that when the publication was given it was typed as SW 1/4 and it should have been SE 1/4. Selectability was done according to the SE 1/4.

Clark stated that the Planning Commission has done some conditional uses for other people and we have included some restrictions, in looking towards the future, if your business should expand, should it get to the point where you'd have to store raw materials outside, would you be willing to accept some restriction in that regard. Possibly you'd be required to re-apply. Applicant responded that he understands. Clark asked at what point do we address this now. Do we grant the conditional use with the understanding that everything be enclosed within the buildings. If it goes beyond that, does he need to re-apply. Clark stated that if this business gets rather large in the future, then maybe this isn't the place for that type of business. Should this be addressed now. Applicant asked if his business developed to be that large, is re-zoning out of the question? Clark stated that the Applicant would probably be encouraged to find someplace that would be a little bit better. Clark asked if we wanted an industrial tract in the middle of agricultural farmland. Herb stated that these now vacant farm buildings, when they are being used as a specific business, they will get picked up as business property by the appraisers. Bud asked about page 94 of zoning regulations concerning home occupations, do these restrictions apply to this application?

Herb stated that they do apply. Applicant stated he has 12.25 acres. Marlin asked at what point would this applicant have to rezone from AG to light industrial. Herb stated when it goes beyond the conditions/provisions listed in the conditional use section of the regulations. Eileen stated that we are trying to protect what may develop in the future. Eileen asked if there were any further questions. Applicant stated that federal and OSHA, EEOC regulations would apply if this business gets larger. Don stated that the applicant has lived on his property for three years and his property shows that he takes pride in it. Eileen declared the public hearing closed on this application.

Item #8 - Martha Krispense application for rezone from AG to RR and variance from 10 acres to 5 acres. Applicants passed out pictures of property and map. Applicants stated that property has rural water and a fenced lagoon, improvements consist of house, garage, barn, cattle shed and cattle working facility, property is located on a rock road. Applicant stated that property is 5.6 acres and he farms the rest of the property. Eileen asked if cattle working facility will be sold with the 5 acres. Applicant stated yes. Members commented on how nice the place was. Eileen asked if they had someone who wanted to purchase the property. Applicant responded yes. Eileen asked applicants to review the house. Applicant stated that the house was remodeled in 1991. Applicant stated that Jay Christensen lives in the house now. Terry asked if Applicant farms the ground all around the property. Applicant stated yes. Bud asked Applicant if this is where Roy Vogel lives. Applicant stated yes. Eileen asked about well. Applicant stated house is on rural water. Terry asked Applicant is he was going to have the property surveyed. Applicant stated yes. Eileen asked if there were any surrounding property owners present. Karen stated that a letter was received from Donald & Betty Sklenar. The letter was read by Karen. They own a lot at Eastshore for retirement. They were informed that they could not put a single wide mobile home on their lot, yet their neighbor who already had a single wide can remove it and replace it with another. The Sklenar's feel that the rules should be followed and if they are broken for one, they should be broken for all. Terry asked applicant where the Sklenar's are from his property. Applicant stated they are 3/4 mile away. Herb stated that he wanted to respond to the mobile home question. Herb stated that a mobile home that existed at the time of zoning can be replaced with a newer mobile home, even though the lot beside it could not bring a mobile home in, it is part of the "grandfathering provision". The basis being that zoning should not present people from upgrading their unit, that should be done with an amortization schedule, you spell out how long the use can continue, when that period has lapsed, then the use would have to be removed. Applicant stated,

according to regulations, if a variance is issued, that is not breaking the rules. Herb stated that this application was before the Commission previously, it was not recommended for approval, to recommend it now, it is important to state what conditions have changed from what was previously considered and not recommended. Eileen stated that first application was for rezone from AG to RR and variance from 10 acres to 2.6 acres, it was tabled for alternative boundaries. On September 28, 1995, alternative boundaries were 3.52, the recommendation was denied because it deviates from the comprehensive plan and was not consistent with other approvals. Eileen stated that acreage is now 5.66. Eileen asked for further questions or discussion. Applicant stated that this application includes the entire existing farmstead. Eileen declared the public hearing closed on this application.

Item #5 - Robert Studer rezone. Herb stated next land owner adjacent to this property takes you all around the reservoir up to Risley Township, and when you grant one of these, you set a precedent. Nobody has any guarantees on what Scully's plans are for the long term, now it's an agricultural operation. With a change in management policy, you could possibly have some interesting applications, with one piece of RR backed up against the reservoir to start it off. Dorman stated that the area looks rough. Eileen stated that the buyer wants to buy 40 acres. Clark stated that he recommends this property remain AG. Herb stated that if the property remains as is, applicant could repair and remodel, but he could not add on or build a new structure. Eileen asked if he could sell off the 40 acres. Herb stated without a change. The 40 acres could have a permit issued for a new residence. Clark moves to deny the application on the basis that it would present a negative effect on the character and condition of the surrounding area as an area zoned AG, further, the current zoning and uses of nearby property's which are AG would also, if it this property were to be rezoned as RR, would have a negative effect on the nearby land uses. Bud seconds. Eileen called for any further discussion. **All in favor of denying the recommendation: 6 (Terry abstains), Opposed: 0, Motion carries.**

Item #6 - Conditional Use - Calvin Jost - Rural Sports facility. Eileen stated this is a recommendation. Clark stated that if the commission does recommend this application, that we include the conditions listed on page 94 regarding one outside person being employed and storage of equipment or materials outside the building or structure. Clark stated that we could state it as a retail merchandising facility as allowed under 21-107, Item G. Dorman makes a motion that we recommend that the conditional use application be approved with the provisions as set forth in 21-

107 Section G of the regulations. Clark seconds. Eileen asked for any further discussion. **All in favor to recommend to approve conditional use: 7, Opposed: 0. Motion carries.**

Item #7 - Conditional Use - Wade Dickerson - Machine Shop. Clark stated see page 92, 21-104, Continuance of a conditional use. Bud stated the same conditions apply to this application as they did with Jost. Clark stated that if that meets his request, we can do the same thing. Marlin stated the applicant could hire one outside person according to the conditions. Bud makes a motion that we recommend that the conditional use application be approved in accordance with Section 21-107, Item G. Terry seconds. Eileen asked for any further discussion. **All in favor to recommend to approve conditional use: 7, Opposed: 0. Motion carries.**

Item #8 - Rezone & variance - Martha Krispense. Terry moves that we recommend the rezone and variance be granted as the applicants have come back with more land, buildings meet the setback requirements, they own the surrounding property, providing that the property is surveyed and is 5.66 acres. Dorman seconds. Eileen called for questions or discussion. Clark states, he will vote for this, but we need to stick by our 10 acre rule as much as possible. Terry stated that he agrees with Clark. **All in favor to recommend the rezone and grant the variance: 7, Opposed: 0. Motion carries.**

Item #10 - Off agenda items. Eileen wanted to discuss procedure for the April 11 meeting and set a date for a continuance. Eileen asked that all members do their best to attend. Eileen stated procedures were set up with the Extension Service. Kathy Goodin and Steve Tonn will assist with procedures. Bill Eberle will be moderating the meeting. Eileen stated that the Applicant will address the Planning Commission. Herb suggested that Don, as an adjoining property owner, possibly abstain from voting. Herb stated that the record needed to be studied at a later date. Eileen stated that members needed to remember that this is a land use decision for the planning commission. Eileen stated that a court reporter will be attending the meeting to take minutes. Eileen stated that April 25, 1996 will reconvene to work. Herb stated possibly we could meet at the Senior Center.

Clark moves to adjourn the meeting. Dorman seconds. **All in favor: 7, Opposed: 0. Motion carries.**

PLANNING & ZONING COMMISSION

Eileen Sieger

Eileen Sieger, Chair