

MARION COUNTY PLANNING COMMISSION

RECORD OF PROCEEDINGS
SEPTEMBER 26, 1996

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

Eileen Sieger stated that she wanted to call roll and when she comes to Sherwin Ammeter's name, the Commission would have a few moments of silence to commemorate Sherwin. Eileen also read a thank you from Mrs. Sherwin Ammeter.

Roll Call was answered by Clark Wiebe, Dorman Becker, Bud Pierce, Dean Fincham, Don Fruechting, Terry Eberhard, Marlin Jansen and Eileen Sieger. Herb Bartel was in attendance.

Eileen Sieger stated that the minutes of the July 25, 1996 will be held and act on approving them at the next regular meeting on October 24, 1996. Eileen asked all members if there was any objection to this. There was no objection.

Item #4 - **Rueben Klassen** - Rezone pending, duly published in the Marion County Record on September 4, 1996. Eileen stated legal description of: West Branch Township, 20-21-1. Herb Bartel stated that the property is on Highway 15, 2 miles north of the Harvey County line, on the west side of the road. Herb passed out a USGS map of with section 20 highlighted, and stated that this is East Emma Creek. Herb stated that the word "creek" is on the highlighted section 20. Applicant stated that it is his opinion that this is a very nice place to build a house and the property has good roads. Applicant stated property has easy access to Wichita, McPherson, Hillsboro and Marion. Applicant stated he has had offers to buy this property and would like to rezone to "RR" to be able to sell off 10 acres. Applicant stated that total acreage is 38 acres. Clark asked if the Applicant's home was in the southwest corner. Applicant stated no. Eileen asked if it was the Applicant's request to rezone the total 38 acres to "RR". Applicant stated yes. Clark asked if there will be one tract of 10 acres and then one tract of 28 acres, or are we going to rezone it so that there could be four tracts of 10 acres. Realtor, Ms. Tracy Logan of Century 21 Realty answered that they were told that this was the only way to do this, to zone off the 10 acres they would have to rezone all of the property. Realtor stated that if there was a way to rezone 10 acres as "RR" and keep the other 28 acres "AG", the Applicant would. Eileen stated that 38 acres is actually a non-conforming agricultural tract. Eileen asked Herb if the entire 38 acres was rezoned to "RR", could the Applicant actually split off 10 acres several times. Herb stated yes, if the entire 38 acres were rezoned. However, as 38 acres, the parcel is eligible for a building permit administratively. Clark asked if the Commission needed to know the specific place that the Applicant wanted to rezone. Eileen answered yes. The Realtor stated that they did

not want to do a survey until they knew if it was rezonable. Clark stated we need to know an approximate place where the 10 acres is going to be. Applicant stated it is along the highway, in the northeast corner of the southeast 1/4 of section 20. The Realtor stated it is the southeast corner. The 10 acres is all grassland with milo around it. Herb passed out a flood plain map, because the corner of the intersection of 15 and the east/west road, is not in the flood plain, the rest of the land in the corner is in the flood plain. Dorman asked if the entire tract is in cultivation. Applicant stated no. Clark asked if the tract would be square or rectangular. Applicant stated it would be more rectangular. Clark asked if the tract were elongated and go farther west, in the southwest corner, would it get out of the flood plain at any point. Herb stated yes, the flood plain is the southeastern portion of the 40 acre tract, the portion where the hay meadow is. Herb stated that we cannot issue a permit in the flood plain without filling the sight, even if the zoning is recommended. Applicant stated that he didn't think this tract is so much in the flood plain, there is some water in the southeast corner when it rains heavy. Applicant stated that there is a good portion to the north of the dirt area that is not flooded, and that is where he would recommend they build a house. Realtor stated the Applicant does have an offer on the land, contingent on the rezone. Realtor stated that the 10 acres does not start right in the corner of the tract. Eileen asked if there were any surrounding property owners wishing to speak on this application. Eileen read a letter from Hulda & John Schrag, Newton, Kansas, requesting that the Commission keep this area agricultural. Dorman asked if the Schrag's live close to the property in question. Eileen stated yes, they were on the notification list of surrounding property owners within one mile of the property. Herb stated that he was not going to recommend making any property in the flood plain residential. Herb stated that his recommendation is that we leave this as a 38 acre sight. 38 acre sights are selling like hot cakes in this county. Applicant stated that he does not care to sell all 38 acres. Herb stated that the County administers the program, we have the responsibility to make sure that if someone builds in the flood plain, that the main floor elevation is one foot above the flood elevation. The County, as administrators of the flood plain program, have to certify that it is out of the flood plain. Applicant stated that he thinks the Commission members are too worried about the flood plain thing. Applicant stated that a lot of people like a little access to water. Herb again stated that Marion County got designated as administrator, not by request, of the national flood insurance program, if a mistake is made, everyone that has benefited from the national flood insurance program is put at risk. The flood plain is a big deal. Herb stated that in many situations, the Government is buying peoples property because it is in the flood plain, they are tired of paying for flood damage. Eileen closed the public hearing portion of the meeting. Don asked if a protest letter has any bearing on the Commission's decision. Eileen stated that a letter is the same as appearing in person, they are owners of surrounding property. Eileen asked the Commission members how

they felt about this application. Clark stated he looks unfavorably on this application. Dean feels the same. Don looks negatively on this application. Bud is not in favor of approving something in the flood plain. Terry stated that the flood plain is an issue, however, the area is primarily agricultural. Marlin would like to see the exact location of the 10 acre parcel in relation to the flood plain. Dorman feels the same as Marlin. Eileen asked for a motion. Clark moves to **deny** the rezone, the character of the neighborhood would be changed with this application as well as leading credence to subsequent applications. Terry seconds. Eileen asked if there was any further discussion. **In favor: 8, opposed: 0.** Motion carries.

Meeting was then moved to the Senior Citizens Center for Item #5 on agenda.

PLANNING & ZONING COMMISSION



Eileen Sieger, Chair