

Minutes – Special Meeting of Woodbury County Zoning Commission June 26, 2006

The meeting convened on June 26, 2006 at 6:07 PM in the Board of Supervisor's meeting room in the court house, Sioux City, Iowa. Present were the following Commission members: Don Groves, Dwight Rorholm, Arvin Nelson, and Grady Marx; Christine Zellmer Zant was absent. Zoning Staff Present: Mr. Pylelo and Peggy Napier. From the public Riley Simpson, consultant for Flat Earth Planning, Gina Tomoson, and Cynthia and Michael Laumendre. The Chairman informed those present the meeting was being audio taped.

**The first agenda item was approval of available minutes.
There were no minutes available.**

The second agenda item was the work session and discussions of the Woodbury County zoning ordinances.

Chairman Groves asked Mr. Pylelo if he had any issues he wanted to discuss before they moved on to Mr. Simpson.

Mr. Pylelo said Planning and Zoning was battling some issues with the new dairy farm on 280th Eastland. We can't reach negotiation on the paving portion; the hard surfacing on about a mile, a mile and a quarter. He was getting instructions saying "no building permit." Pylelo expressed he finds himself in the position of "gatekeeper" on this issue. They are in negotiations. They don't want to pay anything and the county doesn't want to have to incur over a million dollars to pave some ground.

Chairman Groves asked if it was in the plan they were supposed to pay for the paving.

Mr. Pylelo explained there is no plan. The ordinances provide it. He was looking for some language to keep it from happening. His problem was that if everything goes as planned, they will have the DNR construction permit which is stricter than any of our ordinances as far as setbacks and those kinds of things. It's an Ag use. They could probably argue that they are Ag exempt anyway except for going through the process, there is no fee on this thing. He said he had real issues especially if it comes down to him having to pull this thing off.

Mr. Pylelo explained to Mr. Nelson this is another proposed dairy. There will be 4,600 head of dairy cattle scheduled for opening April, 2007. It is approximately a mile and a half from the other dairy farm.

Another issue from Mr. Pylelo was the Planning and Zoning Office got a comment sheet from the City to review a proposed development close to the corporate boundaries. Dial

Realty of Omaha is going to do a 87 lot subdivision – single family dwellings – and then a number of multi-unit housing inside the perimeter of the Whispering Creek Golf Course. It fills the piece between the present development clear to the county boarder. This looks like it will bump into Cornerstone long term development plans. This puts some pressure on the annexation issue. This is inside the city limits, but it solidifies it is happening here.

Mr. Pylelo asked if anyone was on the Zoning Commission when there was a spot rezone of Landmark Development Property Management that was on the spot he pointed to and explained who wanted to buy it and put their Civil Engineering Firm there except that it is not zoned for that. He explained they would be contacting the commission in the near future to discuss rezoning it. The nearby property owners, approximately several hundred, were being notified as this meeting was happening. Pylelo asked if anyone on the commission had any reservations about this happening.

The commission agreed to listen to the hearing with an open mind when it comes up. Their wish is for the zoning to be General Commercial with a Planned Development attached.

Mr. Simpson explained he brought fresh copies for everyone with a draft of what was done at the last meeting. He had added a couple of pages where he explained the Planned Development Process is or could be depending on whether you agree with it or not. Page six (6) is part of the public notification. Previously he had a flat 200' noted for everything and he tried to put in what the current practice is. Under Public Notification he has stated:

For a Planning and Zoning Commission hearing on a proposed amendment of the zoning district map, notice shall be mailed to the owners of all real property lying within 1,000 feet of the subject property. This mailed notice requirement shall not be required in the case of adoption of a countywide zoning district map, in which case, notice shall be published in a newspaper of general circulation including publication of a copy of the proposed zoning map.

This would clearly allow for comprehensive rezoning so you wouldn't have to send a notice to everybody in the county.

Mr. Pylelo confirmed that Mr. Simpson was saying this was requiring them to do a new map. Pylelo said he thought the case law said he didn't have to, but he preferred to. Simpson said he couldn't imagine giving people discretionary notice without mapping an outline. They agreed it would be expensive to accomplish this map.

Mr. Simpson moved on to Variances and Conditional Uses. (Illegible-couldn't hear what changes he made)

Mr. Rorholm asked for some explanations. Mr. Pylelo offered the explanation for Variance notification was for places adjacent to and across the right-of-way of the property wanting the variance. A variance would be for an accessory structure in the front yard, setback issues typically, but we expand that to 500' on the front yard stuff. You could have a variance on height although Pylelo had never had one. They are usually tied to measurements of area or dimensions of setbacks of structures, etc.

Someone asked Mr. Simpson about gathering the list for the notifications. Mr. Simpson asked Mr. Pylelo why names couldn't be gotten from the data base on the GIS system instead of an abstractor's list. Mr. Pylelo said it sounded easier than it is. There are a lot of ins and outs based on case law. He said we feel more comfortable with an abstractor handling it because we can look at the assessor's records and by statute that may not be the only person you have to notify. You might have a property interests that they've gotten sold on contract, a deed has been recorded that hasn't made its way to the assessor's records yet, all kinds of things can happen. If you pay the abstractor they actually go out and research each property to the minute. The list is certifiable. You have to be really careful you don't miss anyone and they might be easy to miss if they've just recorded a deed the day before. Most of them cost \$100 to \$150 and they're sold up front. If it gets screwed up, somebody can sue the abstractor instead of the county. They probably have some kind of malpractice insurance or something.

Mr. Simpson said Pylelo was right. The records that were on the GIS records were not up to the minute. They could be anywhere from a day to several months behind.

Mr. Simpson read through Planned Development. (most was illegible) He said he had never before heard of anyone having to submit a petition to all of their neighbors in order to go through a rezoning process. Mr. Pylelo said that process was actually a nightmare. He could understand sending notification so they had an opportunity to voice their opinions in a public meeting. They would meet in front of the Board of Adjustment.

There was other discussion around this issue. Mr. Pylelo liked what Mr. Simpson suggested.

Mr. Simpson continued to read through the next several pages and then moved on to the subdivision section with no discussion from the commission members.

The commission took a break from the work session at 7 pm for an item for the regular meeting.

The third agenda item was Consideration of the Preliminary Plats and Recommendation to the Board of Supervisors for Tomoson Addition Subdivision – Parcel; GIS 8847 21 101 001

The Woodbury County Office of Planning and Zoning has received a Subdivision application from property owners Brian and Gina Tomoson. The Tomoson's intend to subdivide their current 9.81 net acre parcel into two (2) lots.

The existing parcel at which the Tomosons reside is addressed 1900 Elk Creek Road. The existing residence would be located upon proposed 5A Lot 1. Proposed 5A Lot 2 would be for single family residential development. The preliminary plat provides for a 33' wide ingress-egress and utility easements to lot 2 through Lot 1 along Lot 1's northern property line. (Mr. Pylelo added there would be some adjustments to that pursuant to developments since the commission members received their packets.)

The parcel is located in the NW ¼, Section 21, Woodbury township abutting the northeast side of Elk Creek Road at or near where Elk Creek Road and Derocher Path intersect, is zoned AG (Agricultural) and not within any floodplain. The average crop suitability rating for the property is 36.0.

The developer's intended use is permitted within this Zoning District. As Elk Creek Road is a gravel and County maintained roadway, under the County's paving policies a paving agreement will be required as a condition for approval. The proposed subdivision is also within 2 miles of the corporate limits of the City of Sioux City and thus may require Sioux City Council approval.

Notification was sent to the 19 property owners within 1,000' of the proposed subdivision. To date no responses have been received. Notices were also sent to each of the following Agencies or Institutions with responses noted.

NRCS: No Response received

County Engineer: No additional comment on city. Required frontage providing same/ existing drive is used. (see John's notes)

DNR: No Response received

Long Lines: No Response received

Mid American Energy: No Response received

Siouxland District Health Department: No Response received

County Assessor: No Response received

Emergency Services: No Response received

Real Estate Department: No Response received

Board of Supervisors: No Response received

Woodbury Soil Conservation District: No Response received

City of Sioux City: City responded stating their subdivision approval process will require 25' minimum frontage along roadway

Wells Fargo Bank, Iowa: No Response received

Blanch Laumendre: No Response received

Farmer Drainage District Trustees: No Response received

Soil and Water Conservation District: No Response received

As the city of Sioux City's Planning and Zoning Department will require a reconfiguration of the lots 1 and 2 to provide Lot 2 with frontage along Elk Creek Road your Commission should address this issue. It is anticipated the developer will have no objection to reconfiguration providing Lot 2 with 33' of Elk Creek Road frontage. Such frontage will require dual permanent access/egress easements. It is anticipated that Lot 1 will elect to retain utility easements through a portion of lot2.

At their meeting of June 13, 2006 the Board of Supervisors considered the preliminary plats referring the plats to your Commission for public hearing and recommendation.

That was the close of Mr. Pylelo's comments.

Chairman Groves asked for a spokesperson from the Tomoson's to approach the Commission. Gina approached the Commission.

The Commission went over everything that had been stated with Mrs. Tomoson. Mr. Marx asked a question about the extension of DeRocher Path. There were no other questions from the Commission.

Mr. Mike Laumendre from 1932 Elk Creek Road approached the Commission. He stated he lived across Elk Creek Road from the Tomoson's. He wanted to be present to witness what was happening after he received the notification, but had no particular comments.

Mrs. Tomoson said she and her husband intended to have a covenant that would define the driveway expectations to the owner of the second lot. Mr. Pylelo suggested her deed show new owner of flag lot's easement from 180' to Mrs. Tomoson's driveway. There was no easement necessary from Mrs. Tomoson's entrance to the flag lot.

Mr. Marx suggested she make things very clear in the covenant to protect herself from any future misunderstandings.

Chairman Groves reminded Mrs. Tomoson she had enough frontage to make her own driveway from the highway onto her lot if she needed to.

Mr. Pylelo said she and her attorney should spend some time on this driveway issue on a document that's pretty air tight.

Other comments were made to make it clear she had more than one options for this issue.

Mr. Rorholm also made her aware of the paving agreement she would have to sign. The commission members also discussed related issues she will have to consider.

Mr. Marx made a motion to accept subject to a paving agreement and agreements between the owners of Lot's 1 and 2 regarding the division of the driveway ; Mr. Nelson seconded the motion; motion carried.

Mr. Pylelo suggested Mr. Nelson vote, but he asked also for a vote from Chairman Groves. (Groves voted "yea"). Mr. Nelson is also in the notification area for the Tomoson property and could be perceived as having a vested interest in the outcome. If there ever were a question, Chairman Groves was also asked to vote and the outcome was the same.

The Fourth Agenda Item was a continuation of the work session.

The commission moved to page 14 where they discussed *Review and Decision-making Process*. Mr. Simpson said it was pretty straight forward other than in the *Decision* part. Instead of *Within 30 days after the public hearing the Board of Adjustment shall approve...or deny the appeal*, Mr. Pylelo said they usually decide the evening of the meeting, unless it is tabled one time. Any possible variables to this outcome were discussed.

There was another question of whether notifications should go out for follow-up Board of Supervisor meetings after a rezone meeting with the Board of Adjustment. Mr. Pylelo said he did not think this was necessary but would research it.

(Mr. Simpson read some mostly illegible material regarding rezoning and the rest of material for this evening)

A question about 5 week months and meeting day was discussed. Should 30 days or 35 days be in the draft for next meeting day or for an appeal? The commission went along with Iowa Code which is 30 days.

E. 3 on page 16 will remain 35 days.

Mr. Simpson went over the wording for *Conditional Uses*. They especially looked over the *Review and decision-making process* below:

Review by the planning and zoning commission. The planning and zoning commission shall review the application for a conditional use and report its findings and recommendations to the Board of Adjustment before their public hearing on the application. In their review, the planning commission shall consider each of the standards and other considerations for review of conditional uses as specified in subsection X.XX below.

The commission discussed the language and Mr. Pylelo said planning and zoning got a lot of the language from JEO, the consultants who developed the revoked plan of 2003.

Mr. Simpson wanted to move on to the Zoning Districts, but before he got into those, Mr. Pylelo wanted to make a comment. He reminded them they had discussed making the rear setback for the back yard in the AG District 50'. While that was understandable, it created another problem of more people having to place their accessory structures in the front yards for lack of space in the back and thus increasing variance issues with the Board of Adjustment. The front yard setback applies to all accessory structures including garages. He felt if they changed the back yard setback to 50', they should remove the front yard restrictions leaving a minimum setback from the right-of-way.

Mr. Rorholm said he thought the front yard restriction should stay the way it is now with the option to meet with the Board of Adjustment for a variance.

Mr. Marx asked what if someone has a 10 acre lot with the house set 800' from the right-of-way.

Mr. Pylelo said currently he pays a price for setting his house so far from the right-of-way that maybe he shouldn't have to pay.

A discussion ensued examining the issue from all angles. Mr. Simpson suggested for the next meeting finding a wording that would be satisfactory for the commission, possibly allowing accessory structures in the front yard if there are at least several hundred feet from

the house to the right-of-way and the accessory structure is at least 100' from the front of the primary structure.

Mr. Simpson began defining two different kinds of subdivisions based on the same concept from the 2003 plan:

- **Minor Subdivision:**

- not more than three lots
- no public improvement
- all the lots based on the public right-of-road (public road).
- no internal roads

You don't really need a preliminary plat for that. Everything go directly to a final plat. The Zoning Commission can make a recommendation on it so it can go directly to the Board of Supervisors and you can save some time there.

- **Major Subdivision:**

- Requires preliminary plat and make recommendation to BOS
- County Engineer will give his approval and there will be a followup on construction
- They submit their final improvements to the Zoning Commission who decide if they are ready for their final plat.
- After construction they come in with their final plat. As long as the final plat conforms with the approved preliminary plat there really is no reason in the world why Zoning Commission has to look at it. It can be taken directly to the BOS for approval. All that's needed at that point is a signoff from Mr. Pylelo saying it conforms to the preliminary plat, signoff from the Engineer saying the public improvements are taken care of

Mr. Pylelo noted they would be taking off 30 to 45 days from the process.

Ms. Napier asked how the prices would differ. Mr. Pylelo said saving 45 days is more important than what they are saving financially.

Mr. Rorholm made a motion to adjourn; seconded by Mr. Marx; motion carried.

Meeting adjourned 8:50 PM