

Minutes - Woodbury County Zoning Commission Meeting January 22, 2007

The meeting convened on the 22nd of January, 2007 at 6:06 PM in the Board of Supervisor's meeting room on the first floor of the Court House, Downtown, Sioux City, Iowa. Present were the following Commission members – Arvin Nelson, Grady Marx, Dwight Rorholm, Christine Zellmer Zant and new commissioner David McWilliams. Zoning Staff Present: John Pylelo and Peggy Napier. Present from the public were Riley Simpson, the County's consultant with Flat Earth Planning, Terry J. Kucera, Doug Beller, Mary Beller, Richard Patterson, Jim McKenna, Dick Galland, Anne Cook, Jack Cook, Zeb Cook, Zak Cook, Rollie Cook, Douglas F. Mordhorst, Bradley C. Simpson, Charlie Bechtold, Neil Gross.

Mr. Marx made a motion to have Mr. Rorholm, the past Vice-Chair, act as Chair during the election of 2007 Chair and Vice Chair. Mr. McWilliams seconded the motion; motion carried.

The first agenda item was the election of officers.

Mr. Grady Marx was elected 2007 Chairman; 3 votes for Mr. Marx, 1 for Mr. Rorholm and 1 for Mr. Nelson.

After three rounds of voting, Ms. Christine Zellmer Zant was elected Vice Chair;

Round 1: McWilliams -1, Nelson -1, Rorholm -1, Zellmer Zant -2

Round 2: McWilliams -1, Nelson -1, Rorholm -1, Zellmer Zant -2

Round 3: McWilliams -1, Nelson -1, Rorholm -1, Zellmer Zant -2

Round 4: Nelson -1, Zellmer Zant - 4

The second agenda was the Chairman's appointment of 2007 SIMPCO Representative. Chairman Marx agreed to hold the position of SIMPCO Representative for another year.

The third agenda was approval of December 11th, 2006 Commission Minutes.

Ms. Zellmer Zant called the commission's attention to the first sentence of the first paragraph beginning with "The commission decided to cover the townships with the least amount of..."

Ms. Napier agreed to listen to the tape. The sentence correctly ends with "...subdivisions with residences."

Ms. Zellmer Zant asked the second sentence in the 6th paragraph be clarified. It was changed from;

Mr. Marx said he wasn't comfortable using the term "agricultural residential" when speaking with others living in rural Woodbury County.

to;

Mr. Marx said he wasn't comfortable using the term "agricultural residential" when speaking with other residents living in rural residences in Woodbury County.

The last sentence in the second agenda was, "A discussion ensued regarding what constitutes an AG exemption." Ms. Zellmer Zant asked to see more detail regarding this comment. Ms. Napier agreed to listen to the tape, extract additional information regarding this topic and add it to the December 11, 2006 minutes.

- A person who owns land zoned AG, AR (or any other zoning designation) can qualify for exemption from county regulations and ordinances for building permits if he can show to the satisfaction of the Planning and Zoning Administrator;
 - he uses the appropriate tax forms for farming activities
 - he signs an affidavit to that affect showing the extent of his farming activity
- A person who owns land zoned AG, AR (or any other zoning designation) can **not** qualify for exemption from county regulations and ordinances for building permits if he can **not** meet the above qualifications.

Ms. Zellmer Zant made a motion to accept the minutes subject to the above changes. Mr. Nelson seconded the motion; motion carried with Mr. McWilliams abstaining due to his status as a new commissioner who wasn't at the previous meetings.

The fourth agenda item was a Public Hearing and Recommendation to Supervisors re: Kucera Addition Subdivision. –Parcel GIS # 8847 33 100 010.

The Woodbury County Office of Planning and Zoning has received a Subdivision application from property owners Terry J. and Kathleen M. Kucera. The applicants intend to subdivide the current 28.75 acre parcel into four (6) lot for existing and future residential development. No grading is planned other than residential building site excavation.

On January 16, 2006 the Board of Supervisors considered the preliminary plats and now forwards the platting to your Commission for public hearing and recommendation.

The parcel is located in the NE ¼ of the NW ¼ of Section 33, Woodbury Township abutting the south side of paved 210th St. between Old Lakeport Road and Buchanan Avenue and approximately 0.75 mile (4035') east of Sergeant Bluff's corporate limits. The property is

zoned AG (Agricultural) and not within any floodplain. The average crop suitability rating for the property is 53.56.

Proposed Lot 1, known as 1412 210th St., has an existing single family dwelling in which the applicant's reside and a miscellaneous accessory structure. NO structures exist on any other proposed lots. The applicants intended use for all proposed lots is permitted within this Zoning District. As 210th St. is a paved County maintained roadway no paving agreement is required as a conditional for subdivision approval. .

Notification was sent to the 20 property owners within 1000' of the proposed subdivision's parcels. To date no responses have been received.

Notices were also sent to each of the following Agencies or Institutions with responses noted.

City Clerk of Sergeant Bluff: No Response received

District Clerk and Engineer for the Farmers Drainage District: No Response received

Farm Credit Services of America, FLCA (Mortgagor): No Response received

Chicago and Northwest Railroad (k/n/a Union Pacific Railroad): No Response received

NRCS: No Response received

County Engineer: No Response received

DNR: No Response received

Long Lines: No Response Received

Woodbury County REC: 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

The Planning and Zoning Office make the following comments:

- The single family dwelling on proposed Lot 1 is served by an existing drive which originates from 210th St. on property owned by Jack Cook Farms, Inc. This driveway also serves another single family dwelling on the quarter-quarter section to the south of proposed Lot 2. Although the applicants may have certain undetermined legal rights for continuation of their access that current access is provided on property not owned by the applicants. Thus the platting provides for an alternative driveway access point for Lot 1 along 210th St. should the existing driveway access point be lost.
- Shared drives for Lots 3 & 4 and Lots 5 & 6 have been recommended in preliminary meetings with the County Engineer's office and are shown on the platting.
- Lots 3, 4, 5 and 6 do not meet the County's minimum 200' width requirement. The applicants have requested the 166.52' widths to maximize the number of lots abutting 210th St. It is noted subdivision lots of similar nonconforming widths exist to the east on 210th St.
- The surveyor for the subdivision MLS Surveying has advised the Planning and Zoning office of the possibility the southern property line of Lot 2 may change slightly. The correction will be made on final platting once additional surveying is completed along railroad right of way lying south of Lot 2.

It is recommended that should you approve the platting as submitted that the motion approved include the following conditions:

- Reference to nonconforming lot widths. Should you approve said widths no variance procedure is required before the Board of Adjustment.
- Subdivision approval by the Sergeant Bluff City Council should they elect to review (*Sergeant Bluff waived their right to review*)

This ended Mr. Pylelo's dialogue.

A discussion ensued whereupon Mr. Nelson said he did not want to set a precedence accepting less than 200' of frontage.

Mr. Kucera said he would be agreeable to eliminating Lot 6, giving the other 3 lots 200' of frontage and the lot with the single family dwelling on it slightly more. The flag lot in the back would be accessible by a 60' wide access road.

Mr. Jack Cook of Cook Farms spoke to the availability of his road to the west of Mr. Kucera's homestead. He told Mr. Kucera the road was available for Kucera to use as an access road unless he subdivided, in which case it would no longer be available to him. Mr. Kucera agreed to this stipulation and said his access road would enter off of 210th St.

Mr. Nelson made a motion to approve the Kucera subdivision subject to the following conditions:

- **Lots 1,2,3,4 be increased to 200' + width**
- **Locations of the new access roads be approved by Engineer and appear as separate roads on final plat**

Mr. Rorholm seconded the motion; motion carried 4-0.

The fifth agenda item was a Public Hearing and Recommendation to Supervisors re: McKenna Addition Subdivision –Parcel GIS # 8647 03 100 001 and #8647 03 100 006.

The Woodbury County Office of Planning and Zoning has received a Subdivision application from property owners James J. and Priscilla J. McKenna. The applicants intend to subdivide the current 17.215 acre parcel into four (6) lot for existing and future residential development.

On January 16, 2006 the Board of Supervisors considered the preliminary plats and now forwards the platting to your Commission for public hearing and recommendation.

The parcel is located in the W ½ of the NW ¼ of Section 03, Lake Port Township abutting the south side of unpaved 280th St. and the east side of unpaved Benton Avenue 0.35 miles (1866') southwest of the Salix corporate limits. The property is zoned AG (Agricultural) and not within any floodplain. The average crop suitability rating for the property is 82.0.

Proposed Lot 5, known as 2814 Benton Avenue, has an existing single family dwelling where the applicant's reside and miscellaneous accessory structures. Proposed Lot 6, known as 2824 Benton Avenue has an existing single family dwelling where family members reside and miscellaneous accessory structures. All other proposed lots have no structures.

The applicants intended use for all proposed lots is permitted within this Zoning District. As 280th St. and Benton Avenue are unpaved County roadways a paving agreement is required as a conditional for subdivision approval. The proposed subdivision is within 2 miles of the corporate limits of the City of Salix and may require Salix City Council approval.

The proposed subdivision is within 2 miles of the corporate limits of the City of Sergeant Bluff and may require Sergeant Bluff City Council approval.

Notification was sent to the 14 property owners within 1000' of the proposed subdivision parcel. To date no responses have been received.

Notices were also sent to each of the following Agencies or Institutions with responses noted:

City Clerk of Salix: No Response received

Citibank Federal Savings Bank (Mortgagor): No Response received

Chicago and Northwest Railroad (k/n/a Union Pacific Railroad): No Response received

NRCS: No Response received

County Engineer: No Response received

DNR: No Response received

Long Lines: No Response Received

MidAmerican Energy: No Response Received

Siouxland District Health Department: No Response Received

County Assessor: No Response Received

Emergency Services: No Response Received

Recorder-Real Estate Department: No Response received

Board of Supervisors: No Response received

A discussion ensued with comments from Mr. Rick Patterson and Mr. Dick Galland regarding the excellence of dirt and drainage in that area.

Mr. Nelson made a motion to approve the McKenna subdivision subject to the following:

- **It is recommended that should you approve the platting as submitted that the motion approved include reference to the condition of a paving agreement conforming to County polices along both 280th St. and Benton Avenue.**
- **Mr. Pylelo commented in essence they were taking excellent “AG ground out of commission” and the Board of Supervisors will question why they should allow this.**

Mr. Rorholm seconded the motion; motion carried 4-0.

The sixth agenda item was any citizen wishing to be heard before the commission. Mr. Rick Patterson contributed his opinions at various times throughout the evening.

The seventh agenda item was the Work Session Re: Woodbury County Zoning/Subdivision Ordinances and Mapping.

Ms. Zellmer Zant questioned the reasons for changing AP land to AR when subdividing. There were several comments;

- Mr. Pylelo said we are going through the county because the commission had agreed to change the nomenclature although the verbiage hasn't been finalized. All of the districts will have different names than the 1971 names. He added the commission *should* go through and analyze (the ordinances) every five years or so.
- Mr. Rorholm commented the commission had acknowledged three (3) splits in a 40 (acre tract constituted a subdivision) because it was moving in another direction in the future. He continued, those people have a choice to stay the way they were.
- Mr. Nelson's concern was if it is left AG (agricultural) and they come in and want to build a house, the Planning & Zoning Office will have to tell them then it will have to be changed to AR (agricultural residential).
- Ms. Zellmer Zant said it should occur at that time, not randomly like it is being done now. It should not occur if the land is being farmed even if it does have a house on it. If a couple of acres are split off and a house is built, that can be called AR. A sale triggers the Recorder's office which triggers the Assessor's office which triggers the Zoning office and this should trigger an observation and a review of that property.
- Chairman Marx reiterated; if John Doe got a subdivision and divided his land into ten (10) lots and he says "I want this changed to AR," he is making the choice to change his zoning. If it was done a while ago and was already zone AG, it should be left AG until they start selling the lots or building on them.
- Mr. Nelson said you don't subdivide and create lots unless you know that at sometime there is going to be a house on one of the lots.
- Mr. Rorholm stated when a subdivision is created the developer states what category he intends his lots to fall in. All of the lots in that development will be in that category.
- Mr. Pylelo wanted to clarify the issue. Ms. Zellmer Zant said she did not have an issue with AG (agricultural) being changed to AP (ag preservation). She also did not have an issue with AR (agricultural residential) as long as it did not conflict with what was being used as AG because then it starts limiting the owners of that property.
- Mr. Rorholm stated AR had setbacks regulations, but AP also has setback regulations.
- Ms. Zellmer Zant stated it did not have setbacks if it was exempt as AG.
- Mr. Simpson asked who changes the designation for the land when they build a house.

- Ms. Zellmer Zant said when they come to the zoning office to get a building permit, John would inform them the building permit changes the use and therefore the zoning will change.
- Ms. Napier explained to Ms. Zellmer Zant the rezoning process was actually an expensive, lengthy process and wasn't as simple as changing the name.
- Mr. Simpson acknowledged Ms. Zellmer Zant's question of why the commission appeared to be rezoning everything. He wanted to find a sufficient answer for that other than it seemed like a good time to do it.

As the commission has proceeded through the process from the beginning they have been trying to set up a matrix that makes sense. With that in mind, decision were made that;

AP = purely farming; farms and farm houses

AR = if a farm is broken up and there begin to be multiple houses. When there are three (3) houses on a 40 acre tract or a quarter quarter section, it's time to start calling it something other than pure farming. That's how the commission has come to the process it is dealing with now. We are trying to identify places where this exists and call that AR. Different language could be used, but maybe the way that's viewed will also be changed.

Mr. Simpson stated part of the AR was originally when the land was subdivided and multiple dwelling parcels were placed upon it. As part of the process they would be asked to put together a use restriction agreement between themselves and the county. They would waive their rights to farm exemption and the commission would determine the extent of agricultural use allowed. It was discovered the county cannot restrict agriculture and people don't have a *right* to a farm exemption (*as stated by Assistant County Attorney, Bobbier Ann Johnson, in her Communication to John Pylelo, dated May 22, 2006, regarding "Agricultural Exemption."*) The difference between what we've been told in the AR zone and the AP zone is really just a matter of how many parcels are in a quarter quarter section. That is really the only difference unless somebody, as part of the process, has opted of their own volition, voluntarily, restricted uses to protect the people who are building homes in that area from whatever level of agriculture or any other activity. The market will drive that process.

NR = purely residential subdivision category with a 2 acre lot minimum. Residents would be asked to put a *No Agriculture* restriction on it.

As Mr. Simpson considered this category, he could see no reason why there should be three (3) zones to accomplish what AP and AR should be able to do. The only difference between them is how the developer sees his land and the level of restrictions recorded in the covenant for that subdivision.

Mr. Pylelo stated the only thing that would show a change would be the bulk

requirements. As it is now, the bulk requirements would all be the same.

Mr. Simpson distributed revised copies of Article 1: Sections 1 thru 3 including the tables. The most current copy is now 1/22/2007. It was still in the discussion process.

On page 20 Mr. Simpson explained why he changed AP (ag preservation) to AE (agricultural estates). He felt it reflected what they had been talking about; it includes agriculture, acres, where people have their homes, and whatever agricultural uses they want to do in their zoning district. It is a change in the nomenclature so instead of calling it *residential zone* it is an *agricultural estate zone*.

The balance of the information is included in the printouts.

A discussion ensued in which much confusion was expressed regarding what *AE* was intended to replace. Some thought AG, AP, and AR were all now AE, some thought only AG and AP were changed to AE and others understood only AR was replaced by AE.

Chairman Marx said from this evening forward he agreed 100%. He continued, saying before this meeting he did not think the commission had the right to change anyone's status for zoning. He clarified saying he personally did not feel they had the right.

Mr. Simpson pointed out the commission does have the right to make a recommendation to the Board of Supervisors.

Mr. Rorholm was not comfortable with the idea of subdivisions not having like qualities that affect the entire subdivision as a protection to the developer as an investment.

Mr. Rorholm suggested the meeting be tabled until they could come to a meeting of the minds.

Ms. Zellmer Zant asked to see maps of the townships to compare how things have changed. Floyd Township was the only township that has been worked on.

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

Meeting adjourned 9:20 PM.

Next meetings are scheduled for Tuesday, February 13th and Monday, February 26th.