

## **Minutes - Woodbury County Zoning Commission Meeting**

**April 28, 2008**

The meeting convened on the 8th of April, 2008 at 12:12 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 – Chairman Grady Marx, Commissioners: Dwight Rorholm, David McWilliams and Arvin Nelson. Commissioner Christine Zellmer Zant arrived at 6:50 PM. Zoning Staff Present: Director John Pylelo and Clerk Peggy Napier. Present from the public was Riley Simpson, the County's consultant with Flat Earth Planning; Thomas Orr, County Engineer Dick Storm and Jack Burright representing Farm Bureau.

**The first agenda item was approval of April 08, 2008 Commission Minutes.**

Director John Pylelo asked the April 8, 2008 minutes be amended by replacing the fourth (4<sup>th</sup>) paragraph on page five (5) with the following paragraph:

*The Commission discussed the proposed zoning along the US Hwy 20 corridor just east of Sioux City. This area includes parcels owned by the Orr family.*

*Discussion ensued on whether to allow the Orr family's request to zone certain parcels from the current AG (Agricultural) to a GC (General Commercial) designation. It was mentioned that allowing the GC zoning designation may impact the limitation of off-premise signs on the parcels. Consultant Simpson was directed to change the proposed zoning map and not allow the requested zoning change to GC on the Orr parcel west of Buchanan Avenue. The parcel should be zoned AE (Agricultural Estate.) John Pylelo was directed to contact the Orr family and advise the family of the Commission's recommendation decision.*

**Commissioner McWilliams made the motion to approve the April 08, 2008 minutes as amended; seconded by Commissioner Rorholm; motion carried 4-0.**

**The next agenda item was consideration and recommendation upon amended Preliminary platting for Framax Acres Addition subdivision.**

The Woodbury County Office of Planning and Zoning has received a Subdivision application from Brian Lee Ivener and Alan Ivener, Trustees of the Max Ivener and Francys B. Ivener Family Trust. The proposed site is located in the NE ¼ of Section 05, Liberty Township.

At the Zoning Commission meeting of October 22, 2007 your Commission approved preliminary platting subject to numerous conditions. Enclosed you will find the amended preliminary platting for Framax Acres Addition. Due to the nature of the conditions placed upon the subdivision and the additional data now available this matter of preliminary plat review is again brought before the commission.

The site lies approximately 0.75 miles East of Sergeant Bluff on the South side of seal coated 220<sup>th</sup> St. between paved Old Lakeport Rd. to the West and graveled Barker Avenue to the East. The location is known as GIS Parcels # 8847 05 200 001; 8847 05 200 002; 8847 05 200 006; 8847 05 200 007.

The applicants intend to subdivide approximately 102 acres of which 48 acres will be residentially developed into 21 lots. Access to the 21 lots will be primarily from dual driveway locations along three County maintained roadways. There are no existing structures with the exception of one concrete and two metal grain storage bins upon Lot 15.

The amended preliminary platting now provides for a 8.66 acre Unbuildable Tract which is to remain in agricultural production. Previously the 8.66 acres had potential for future residential development. Access to the Unbuildable Tract will be from 70' access roads from the south side of 220<sup>th</sup> and the east side of Old Lakeport Road. The average crop suitability rating for the 102 acres is 63.0.

Pursuant to the County's paving policy subdivision approval is to be conditioned upon a recorded paving agreement for all Lots fronting 220<sup>th</sup> St. (seal coated) and Barker Avenue (graveled).

This location is zoned AG (Agricultural), no portion of the property lies within a flood hazard area and the proposed uses are permitted within this zoning district. The location is not within any drainage district but is bordered by the Farmers Drainage District to the north and west. All proposed lot sizes meet the required 2 net acre area minimums for residential development.

As the location is within two (2) miles of the city of Sergeant Bluff the subdivision may require Sergeant Bluff's City Council approval. Sergeant Bluff representatives attended the public hearing on this matter. We anticipate the City of Sergeant Bluff will exercise its right of extraterritorial review.

At your meeting of October 22, 2007 you held a public hearing on this matter. We enclose a copy of the October 22<sup>nd</sup> meeting minutes. Provided below is a list of the condition your Commission placed upon your approval of the original preliminary platting for Framax Acres Addition. Planning and Zoning Office comments follow each condition in bold type.

*Mr. Rorholm made a motion the Framax Subdivision Preliminary Plat be approved subject to each of the following conditions:*

- a. *The width of the two access/egress locations to the Unbuildable Outlot be increased from 60' to 70'. **The amended preliminary platting reflects this change.***
- b. *Lots 6 through 15 and the Unbuildable Outlot provide an additional 17' of roadway right-of-way to Woodbury County so that 50' of right-of-way is available south of 220<sup>th</sup> Street's centerline. **The amended preliminary platting reflects this change.***
- c. *A paving Agreement be executed and recorded for both 220<sup>th</sup> St. and Barker Avenue. **The developer has agreed to sign and record the required paving agreement.***
- d. *An applicant's engineer provides an assessment of potable water for this proposed subdivision. **No action has been taken on this issue. Further direction is requested.***

***Outcome April 28:*** *(Mr. Pylelo wanted to wait until he heard from District Health Director Chuck Cipperley. Cipperley had originally said the distance from the plume to drill a well was 1,000' which Mr. Pylelo thought seemed excessive. Mr. Munson informed the commission the DNR gave Donahue's permission to drill a well in spite of the plume).*

- e. *Soils be tested for percolation. Chuck Cipperley of Siouxland District Health is to select the testing site and advise the applicant. **See attached percolation testing report dated January 14, 2008 from Certified Testing Services. The report is notable as Lot 2 and one of the test holes on Lot 5 did not meet required state percolation standards. The report states in areas where fat clay soils exist that drain fields will have to be engineered in order to provide suitable percolation test results.***

***Outcome April 28<sup>th</sup>:*** *(Mr. Cipperley tested random sites for percolation. There were issues on certain lots. Mr. Munson recommended each lot be tested by buyer, although this would be costly.*

*Discussion ensued. Consensus was to provide disclosure in covenants to go with each lot. Chairman Marx said the seller should disclose to potential buyers ).*

- f. *The applicant's Engineer (John "Jay" Munson) assess how runoff will be dealt with and determine what is to be in place for an adequate drainage plan coordinating with the Woodbury County Engineer. See attached report from Engineer Munson dated April 1, 2008 addressing the drainage of the subdivision.*

*Attached to Mr. Munson's report is an email dated March 28, 2008 from Jim Bertsch of Certified Testing Services, Inc. providing groundwater elevation information. It is of note that Mr. Bertsch recommends a footing drain be installed around the perimeter of basement foundations and a sub-drain be installed under the floor slabs. The Commission may wish to consider asking the developer also place these construction recommendations as recommendations or condition within the subdivision's restrictive covenants.*

*It should be noted that the potential development of the former 8.66 acre Outlot 22 is no longer being requested by the developer. This fact should mitigate future drainage issues.*

*Your Commission should discuss how to ensure future owners of Unbuildable Tract are made aware of such a restriction. Discussion of recording a restrictive deed preventing residential construction or subdivision has taken place with the developer. Although the developer is agreeable this would seem to be extreme condition as it would become a permanent restriction upon the Unbuildable Tract. The current notation on the final platting that the Tract is Unbuildable should be sufficient. The Office of Planning and Zoning could also flag the subdivision's file of this fact.*

*Outcome April 28<sup>th</sup>: (Engineer Munson proposes regrading the lots so water runs north toward 220<sup>th</sup> St and proposes grading lots so the north side drains to the south into the Unbuildable Outlot.*

*Everything at the north end of lot 3 [with a benchmark elevation for drainage of 1085.37'] will have ditches and a culvert along Lakeport. On the east side of the road on some lots culverts will be provided for drainage along Barker Avenue. Engineer Storm approves of these possibilities.*

*Discussion ensued: Outcome; recommendations for ways to deal with drainage would be provided in covenants).*

- g. *Contamination Plume – Lot 1 will not be built upon until plume issue is resolved:*
- a. *No wells within 1000' of edge of plume*
  - b. *Lots impacted by 1000' restriction be identified.*

*The contamination plume issue related to Lot 1 may require additional discussion*

*as the separation distances within your condition were formulated based upon the testimony of Siouxland District Health personnel. We now understand the 1000' separation distance may be more restrictive than actually warranted. The Commission should evaluate the building zone to Lot 1 as it relates to construction, septic and water well construction.*

**Outcome April 28:** *(Siouxland District Health should deal with determining where septic systems and wells should be allowed.)*

- h. *Consideration be given to Sergeant Bluff's requirement for its 30' building height restriction.*

*The notes within the amended preliminary platting do not refer to this height restriction limitation. The commission may wish to consider asking the developer also place the height restriction within the subdivision's restrictive covenants.*

**Outcome April 28:** *(Director Pylelo asked Mr. Munson to place maximum height limit of 30' in the notes on the plat.)*

- i. *A Drainage assessment or plan is requested. See attached report from Engineer Jay Munson dated April 1, 2008.*

- j. *Misspellings in the notes section of the platting and the reference to Shadeland country Estates Addition subdivision be corrected. The amended preliminary platting reflects this change.*

- k. *All references to rear set backs of 15' be changed to 100' to comply with ordinances. The amended preliminary platting reflects this change.*

- l. *The platting shall reflect the location of any known culverts along Old Lakeport Road, 220<sup>th</sup> St. or Barker Avenue. A reasonable attempt is to be made to determine the location of any buried/inoperable culvert locations. The Office of Planning and Zoning, county Engineer's Office and Engineer Munson have discussed the culvert location matter. Additional discussion on this issue should take place.*

**Outcome April 28:** *(Engineer Munson made an attempt to find but says it is moot.*

*Mr. Pylelo told Mr. Munson the changes would be written out and given to him.)*

**Commissioner Rorholm made a motion to recommend approval of the amended preliminary platting for Framax Acres Addition subdivision subject to the following conditions:**

- 1. That installation of well and septic systems within the subdivision receive the approval and permitting required from the Woodbury County District Health Department. The District Health Department's review and permitting is to take into consideration the water table in the area, soil types, the developer's drainage plan, results of existing and future percolation testing and the proximity of the petroleum plume originating south of Lot 1 on property currently owned by Mary L. Donahue; and**
- 2. The developer receive the approval from the Woodbury County Engineer for the subdivision's drainage assessment plan outlined by engineer John A. Munson of Sundquist Engineering in correspondence dated April 1, 2008 ; and**
- 3. That notes within the final platting and the subdivision's restrictive covenants include a maximum height restriction for structures of not more than thirty feet (30'); and**
- 4. That reasonable efforts be made to locate and show upon the final platting the locations of buried and inoperable road right of way/ditch culverts, and**
- 5. That potential property owners be advised of the unique water table in the area by reference thereto within the subdivision's restrictive covenants. That prior to real estate closing buyers be provided copies of the following documentation:**
  - The County Engineer approved drainage assessment plan; and**
  - A copy of Mr. Jim Bertsch's email of March 28, 2008 discussing ground water information and his recommendation for installation of footing drains around the perimeters of basement footings and that sub-drains be installed under floor slabs; and**
  - A copy of certified testing Services Inc.'s percolation testing report (seven pages) dated January 14, 2008.**
- 6. A paving agreement be recorded meeting Woodbury County's paving policy as it applies to the future surfacing of 220<sup>th</sup> St. (currently seal coated) and Barker Avenue (currently graveled).**

**Motion seconded by Commissioner McWilliams; motion carried 4-0.**

**The next agenda item was any citizen wishing to be heard before the Commission**

Citizen comments were part of the work session.

**Chairman Marx suggested recessing for a 5 minute break at 7:20 PM.**

**Meeting reconvened at 7:25 PM.**

**The next agenda item was a Work Session Re: Woodbury County Zoning and Subdivision Ordinances and Zoning District Mapping.**

Discussion ensued with Mr. Jack Burrighr regarding the letter from legal representative of Farm Bureau:

*Points # 1-3: Definition of farm – how long has it been in the current ordinance; what constitutes a farm; could change the word “positive” to “objective.”*

*Point # 4: Concern; 1<sup>st</sup> factor – if it looks like a farm in any reasonable interpretation, it will be considered a farm (Director Pylelo will make determination).*

*2<sup>nd</sup> factor – Schedule “F” – filing a Schedule “F” tax form = having a “farming” enterprise.*

*Mr. Burrighr, on behalf of the Farm Bureau, suggested the Commission follow the definition of “farm” that is in the Iowa Code.*

*Commission Nelson didn’t think current definition would be a problem as much as anticipated. If the Farm Bureau thought it was they could always appeal. Mr. Pylelo offered to research the details of the appeal process. He stated the appeal would be before the Board of Adjustment and the fee could be waived.*

*Chairman Marx asked what happens if new administrator disagrees with the interpretation of an ordinance. Mr. Rorholm said the Zoning Commission could review it and make a recommendation to the Board of Supervisors or the Board of Adjustment would consider it and make a ruling. This is State Code. When Mr. Simpson asked if the fee could be waived Mr. Pylelo said only the Board of Supervisors can approve or recommend a fee be waived.*

*Mr. Pylelo stated if there were a lot of objections the Board of Adjustment could make a ruling.*

*Chairman Marx commented farmers have had to ask the “right questions” before a building permit would be considered Ag Exempt. Mr. Pylelo said it would be vindictive to go out of one’s way to prove they are not exempt.*

*Mr. Rorholm wondered if complaints aren't more about how they are taxed – which has nothing to do with our exempt status.*

*Mr. Burright asked if the ordinances coincided with Iowa Code. Mr.s Pylelo, Marx, and Simpson assured Burright the proposed ordinances are much clearer.*

*Point # 3: Are gardens tied in with farming – comments included; raising a crop that has commercial value could be exempt - for personal use, probably not.*

*Mr. Burright read from page 33 of the proposed ordinances: “Every farmer has to apply before he can apply fertilizer on his own land.” Comments were the ordinance was designed to allow fertilizing without having the land zoned Industrial. Fertilizing is allowed in AP zoned areas.*

*Mr. Burright, looking at page 29, suggested crop spraying and fertilizing be added under “crop farming.” Mr. Simpson agreed to insert clarification in “crop farming.” He will also add “crop farming” to “Definitions.”*

*Point # 6: Answered already – only for small farmers*

*Point # 7: What qualifies as a “farm house”*

*Point # 8: Farm Bureau recommends replacement language for A, B, and C. Chairman Rorholm said the proposal from the Farm Bureau is actually more restrictive than what is in the Zoning proposal. Simpson thought the Zoning draft was clearly understood. The Commission also felt the proposal was clear.*

*Point # 9: Mr. Simpson said the format was relatively common in new town and county ordinances.*

*Point # 10: The entire “Provisional Use” category has been deleted.*

*Point # 3: With the “grandpa/relative” or “tenant” house, they must be involved in farming activity on the parcel.*

*Point # 7: Lobbying; No ex-parte communications. The Board of Supervisors should be included when talking about rezoning – who they speak to and what was discussed needs to be presented to all other members of the Commission. Mr. Simpson recommended leaving it in for all future commissioners. A statement that could be made if found in this kind of situation is, “You’ve got a point there. Maybe you should bring that up at the meeting.”*

### **Other topics discussed:**

Mr. McWilliams stated three (3) options were offered for “Airports.” He recommended we go with the third (3<sup>rd</sup>) version. It is simpler and easy to read.



**Commissioner Rorholm made a motion to accept the third (3<sup>rd</sup>) version of Airport Regulations; Commissioner Marx seconded the motion; motion carried 5-0.**

Mr. Pylelo reminded Commission of the Planning and Zoning Workshop on April 29 and the Town Hall Meeting at the Merville Community Center on May 13, 2008 from 7:30 to 9:30.

Mr. Burrignt reminded the Commission of publishing deadlines for the county papers.

Mr. Simpson asked the Commission to look at the “Flood Hazard Regulations” on page 60. Regarding the Dam Failure Innovation; be aware Simpson took the “FW” section of the most severe floodway information and modified the language as a separate zoning district. This was what the DNR suggested. Chairman Marx asked if farmers could build structures to house animals. Mr. Simpson said they can.

**Mr. McWilliams made a motion to adjourn; Mr. Rorholm seconded the motion; motion carried 4-0**

**Time adjourned 9:30 PM.**

**Next meeting Monday, 6 PM, May 19, 2008.**