

Minutes – Special Meeting of Woodbury County Zoning Commission December 15, 2005

The meeting convened on the 15th of December, 2005 at 6:25 PM in the conference room of the Planning and Zoning office on the 6th floor of the Court House, Sioux City, Iowa. Present were the following Commission members – Chairman Don Groves, Dwight Rorholm, Arvin Nelson and Grady Marx; Absent – Commissioner Larry Tobin; Zoning Staff Present: John Pylelo and Peggy Napier. Riley Simpson, consultant for Flat Earth Planning, was also present.

The first agenda item was approval of the previous Commission meeting’s minutes of November 28, 2005.

Mr. Rorholm made a motion the minutes be approved. Mr. Marx seconded the motion; motion carried.

The next agenda item was the work session and discussions of the new and revised zoning ordinances.

Mr. Pylelo introduced the preliminary materials previously presented by Flat Earth Planning consultant Riley Simpson regarding bulk area requirement issues as well as the permitted/not permitted/conditionally permitted activities from the current zoning and from the zoning in the Comprehensive Plan for purposes of historical perspective.

Mr. Simpson distributed material containing the summation of what was in the 1971 ordinance and the 2003 ordinance with available spaces for notes on what the commission wants in the new ordinance. Each page contains a different zoning district including the bulk regulations required for each.

The first district brought up for discussion was the Agricultural District (AG) which Mr. Simpson proposes be defined as:

To encourage the continued role of agriculture as the primary economic sector in the unincorporated areas of Woodbury County, thereby preserving its rural character. Land uses that are compatible with agriculture and farming are allowed. Soil and water conservation practices are encouraged.

Mr. Nelson commented on the 2003 AG ordinance that stated its intent to “...conserve and otherwise preserve the prevailing rural agricultural farming characteristics, values and resources...” and what importance that would play on the proposed ordinance. Nelson’s concern was treatment of soil and water conservation practices. In previous regulations, construction sites with a certain amount of acreage were required to control runoff, siltation and other conservation issues.

Mr. Pylelo said he and Mr. Simpson had discussed the possibility of a stand alone ordinance that would address ground water and surface water control issues. Mr. Simpson said it could include other related issues to better address erosion issues. Acreage size could be a part of that. Mr. Rorholm agreed it would be beneficial to include such verbiage as an important part of the vision.

The commission moved on to a comparison and discussion of the bulk regulations. Mr. Pylelo commented the 2003 minimum required acres for AG was three (3) acres. The 3 acre minimum created problems during the eight (8) months it was in affect. Pylelo's opinion was AG minimum (least amount of land on which to build a primary structure) acreage should remain two (2) acres. This would also address the continuing problem with nonconforming (i.e. less than minimum) lots. Mr. Rorholm suggested AG minimum acreage be 15-20 acres. Mr. Pylelo suggested the ability to build a house on nonconforming acres be removed as a permitted use in the AG bulk regulations.

A discussion ensued regarding acreages being cut out of larger parcels for children/relatives and if they should continue to be zoned AG if their use ceases to be AG. Mr. Pylelo cited the 2003 density rules;

- AP (agricultural preservation district) – (no more than) 4 single family non-farm residence to every 160 acres
- TA (transitional agricultural district) - (no more than) 8 single family non-farm residence to every 160 acres

Mr. Rorholm said it might be beneficial to add something like that to the new regulations to prevent the influx of 2 acre parcels going in everywhere.

Mr. Nelson said he has been on this commission for a long time and has never seen a single new parcel turned down. Every gravel road appears to be treated as development property that the commission has approved. Nelson asked the commission members at what point had the commission ever denied a request for development. He noted the future land use map showed development or potential development along the major paved roads, but in actuality, all of the gravel roads (such as the gravel road from Bronson to Hwy 20) are being developed but aren't reflected on the map.

Mr. Pylelo and Mr. Groves both commented that was where development needed to stop to encourage more agriculture activity under the new plan. Limiting the amount of single family dwellings allowed per 40 acre parcel would be one way to control that. Mr. Rorholm commented it didn't seem reasonable to not allow someone with 40 acres to carve off a piece of that land to give to a family member. Mr. Pylelo said if Rorholm was talking about a gray area in the subdivision process, they would have to "make a pitch" to the commission to have the area rezoned to "yellow" (residential development) instead of being AG.

Mr. Nelson took issue with a Robert Logan who was successful in going before the Board of Supervisors and having an area of his land close to Menville rezoned from AG to residential without it first being recommended to the Zoning Commission or going through a process whereby the surrounding landowners were notified. It was agreed by all a situation like this should go through the appropriate channels before being approved. It didn't actually change

anything that was already on the map because the map hadn't been adopted yet. The change could also have occurred as an amendment after being presented in a public hearing.

Mr. Riley brought attention back to the discussion of AG districts;

- Mr. Groves wished to have the minimum land required for building be brought back to 2 acres to avoid continuing non-conformities.
- Mr. Rorholm wanted to go to 10-20 acres as a way to preserve AG land.
 - This leaves enough land for a farmer to carve off a piece to give to a relative.
 - Mr. Groves pointed out according to the assessor's office, 10 acres is a farm.
- Mr. Marx said he would like to see "trophy homes" on larger lots. Mr. Rorholm said these 10-20 acres were not for "trophy homes." He did acknowledge there would be those who would want 3-5 acres so they have room to do some of the things they want on their land while maintaining enough room to avoid being nuisances to their neighbors.
- Mr. Groves said the idea was to not have 2 acre homesteads.
- Mr. Rorholm said with 2 acre lots, there was always the issue of problems with septic or sewer systems, and space for replacements.
- Mr. Nelson said there had been the rule of 1 house in a parcel of 40 acres and only 1 split in a 40 acre parcel before one had to subdivide. Ultimately, a farmer could place one house on each 40 acre parcel of a quarter section. Mr. Nelson thought the farmer would be able to sell off a 2 acre parcel, but no building could be put on it because the rule stated only 1 house per 40 acres. Mr. Pylelo clarified the rule as stating 1 house *per parcel*, the parcel not necessarily being 40 acres. Pylelo stated this sounded more like a *density plan* than a minimum acreage discussion.
- Mr. Pylelo said it wasn't possible to have as much as 16 houses built throughout a section because of the landlock issue (no road access to houses). Mr. Rorholm acknowledged the situation and stated that was why so much of the current subdivision development was along paved and dirt roads. There could only be access from an existing road, leaving residential developments along the inner roads and inaccessible land behind it. Mr. Simpson said "If you want density that doesn't look like it's a farm, it ought not be zoned AG." Mr. Rorholm suggested it should be either a 40 acre farm or a 40 acre subdivision. Mr. Pylelo suggested this be stated in an ordinance as land that either can or cannot be turned into a subdivision; what constitutes land that cannot being determined by the commission. Alternately, Pylelo suggested the only way to subdivide be to have the ordinances "tight enough" so that rezoning (to a form of residential district) is the owner's only option.
- Mr. Pylelo said assessing building situations based on density testing (determining how many residential dwellings are allowed per certain amount of land; i.e. 160 acres) is especially difficult from an administrative standpoint. There are too many

variables needing to be considered in each situation for the department's limited capabilities.

- Mr. Simpson reminded Mr. Rorholm that farm exemption does not apply to a person who happens to be living in an AG district but is not a farmer or is not farming.
- Mr. Pylelo said he preferred having the commission require a certain number of acres rather than going to a density test.
- Mr. Rorholm said one of the things that distressed people with the 2003 plan was the grandfather rights did not follow with new owners. If livestock had been allowed before and the land was sold, the grandfather rights that allowed the livestock would not necessarily follow.
- Mr. Simpson asked if those on AG zoning wanted to be able to farm without having too many neighbors. Mr. Nelson responded this is what many of them want, but many owners also want to be able to sell off everything along the gravel roads. Mr. Simpson said they should be rezoning it to something that is designed for residential. Mr. Nelson wanted to know if they should be allowed to place residential structures all along the road. Mr. Groves said new rules have to be made regarding this. Mr. Nelson said if this is changed from the way the present ordinances read, the people will not like it because this is something he would not like either. A discussion ensued regarding the process required to make such a transition.
- Mr. Marx suggested the commission revisit covenants to govern subdivisions of any size. Mr. Simpson stated the commission's Board of Supervisors was not amenable to the idea of covenants. Mr. Nelson cited the "Agreement to impose covenants..." in the Paving Agreement document as an example of *covenants* that are already in use in the zoning department of the county. Mr. Rorholm suggested something of this nature being used in regulating subdivisions. He further suggested it go along with the abstract and become a part of the property for the life of that property. If developers did not agree to the covenants, the zoning is disallowed. Mr. Marx was concerned that developers would take advantage of this and design their own covenants. Mr. Rorholm explained the covenants would be part of the bulk regulations. If the developers want to go beyond this, that's fine.
- A discussion ensued regarding what the differences were between the various zoning districts; i.e. AR-agricultural residential, TA-transitional agricultural, etc.
- A discussion ensued regarding paving agreements; should subdivisions have covenants binding it to paving agreements requiring gravel roads be built anticipating they will one day become paved and the homeowners will be responsible for all but 40% up to one mile of the paving costs.
- Mr. Marx made a drawing on the board of a possible layout for a subdivision. The driveway into the subdivision began on a corner off a road of a 40 acre section. The cul-de-sac cut to the center of the section and was lined with an unspecified number of lots that could be a variety of sizes. The layout allowed for access to all of the lots

without leaving landlocked or flagged lots. If any lots remained, access was possible to it either from a road abutting the section or an easement between 2 of the interior lots (public road or private road). This arrangement allows for the possibility of specifying certain quarter sections entirely for development (and possible rezoning) while leaving others alone for agricultural development only. The design met with positive discussion from the commission.

- Chairman Groves called the commission to the task of moving ahead. The commission agreed they had accomplished a great deal. Mr. Nelson reminded the commission the issues discussed were prerequisite to moving ahead. Mr. Simpson summarized;
 - A predetermined lot size with a limit of two (SFDs) per quarter/quarter section (which) corresponds to the ability to split it once without a subdivision.
 - If a subdivision is required, the subdivision must be rezoned (from AG to) AR or whatever designation is planned.
 - Mr. Pylelo questioned the ability of the commission to say “no” to potential developers.
 - The commission members agreed they could. Mr. Simpson explained the regulations could state a row of lots along the frontage with flag lots behind were no longer allowed.
 - Private road must be built to accommodate future paving standards. Discussion ensued regarding details of design, paving agreement, and county requirements.
 - Mr. Simpson said it was up to the property owner to determine the best use of his forty (40) acre tract; how to best lay it out to result in the best development including some commitments to participate in the cost of paving in the future. Once the owner wants to sell the frontage road lots he is no longer a farmer. If he wants to develop that land, he must follow the rules for development. If their priority is farming, they won’t sell off that land.
- A discussion regarding the definition of and uses for “AG exempt.”
- Discussion of legalities of covenants, what is involved in changing covenants, and other related issues.

The evening’s discussions began with issues involving agriculturally zoned parcels in rural Woodbury County and ended with issues regarding possible developments closer to

incorporated areas of the county. The issue of how to deal with developments once rural with their own septic systems and wells but now being swallowed by urban sprawl was discussed. Mr. Rorholm suggested the incorporated area should become responsible for the zoning of a development once it has become surrounded by or annexed by the city. Mr. Groves explained traditionally the urban services area (i.e. who was responsible for the upkeep of the streets) was within a two (2) miles radius of the city limits.

It was agreed the next meeting would be Wednesday, December 21, 2005.

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

Meeting adjourned 9 PM