

## **Minutes – Special Meeting of Woodbury County Zoning Commission February 6, 2006**

The meeting convened on the 6<sup>th</sup> of February, 2006 at 6:10 PM in the lower level of the court house, Sioux City, Iowa. Present were the following Commission members – In the absence of vacationing Don Groves, vice-chair Dwight Rorholm acted as Chairperson, Arvin Nelson, Christine Zellmer Zant, and Grady Marx; Zoning Staff Present: John Pylelo and Peggy Napier. From the public Riley Simpson, consultant for Flat Earth Planning, J.D. Burright, Stanley Bolender, and Ken Gard were also present.

**The first agenda item was approval of the December 21 Zoning Commission meeting.**

**To make a quorum, Mr. Rorholm, acting Chair, was required to vote. Mr. Nelson made a motion to approve the minutes. Mr. Marx seconded the motion. Ms. Zellmer Zant abstained. Motion carried.**

Mr. Pylelo asked the commission about issues with a preliminary plat for a re-subdivision of 4 acres belonging to the Ellis family. Pylelo wanted to know if it would be worth the Ellis family's time and expense to bring it to the commission. The efforts the Ellis family had already made to increase the size of the parcel and the non-conformities resulting from splitting the 4 acres were so minimal, Pylelo wondered if it were possible the commission could find a way to make it happen for them. Mr. Rorholm agreed this was a situation that needed to be decided as an individual case.

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

Mr. Simpson had emailed materials to Mr. Pylelo and Ms. Napier to be made available to the members of the commission for tonight's meeting. Due to a technical problem the materials were not received and the rewrite was given to the commission later than intended. Simpson did a quick review, page by page, to bring everyone up to speed with the most current information.

Nine zoning districts had been decided upon including a Planned Development District (PD) that was non-specific as to what might be allowed in it. Each of the districts was described in the pages distributed to the commission. Mr. Simpson intends to be clear there will eventually be a zoning map and will stress to those at town hall meetings it is under development and will be presented at a future date.

The regular zoning districts are:

- AG-agricultural: The essence of which specifically allows agriculture, but, in fact, farming is exempt from the provisions, so it's similar to a reverse catch 22. The critical point is the ag district does not allow certain things that are not farming. Not allowed are commercial, industrial, and dense residential developments.
  - Specifically, it would allow 2 residences per quarter-quarter section, so on any 40 acre tract you could have 2 parcels, each one having a residence on it. If there happened to be 3 farms that intersect on a 40 acre parcel, each of the 3 farms would have a right to have a farmhouse there regardless of the definition.
  - The minimum lot size of a parcel in the AG zone is 2 acres. The rest of the setbacks are clearly spelled out in the table.
  
- AR-agricultural residential: Intent would be if someone wished to have more than 2 homes on any 40 acre tract, they would be expected to follow a subdivision to divide the land.
  - Minimum lot size would still be 2 acres.
  - There would be the potential of some limited agricultural uses allowed, but as part of the process of subdividing the land to create multiple lots for residences, there would be an expectation that the subdivider would waive some of their rights to an ag exemption which would be specifically spelled out in agreements that would be appended to approval of the subdivision. It would be *regulated* agriculture rather than *exempt* agriculture.

Mr. Marx and Mr. Pylelo had some questions and reservations about the concept of *waiving* ag exemptions. Marx asked that great care be taken to make the intentions of this waiver clear to the public. Mr. Pylelo gave a simple example to better understand this process;

*Let's say we've got a quarter-quarter, typically with a road to the south with 3 lots that we want to develop along the adjacent roadway. The lots are 2 acres each and then 30 acres which is in a flag lot that the farmer intends to leave in agricultural production. Typically, if you approve that subdivision, you would have 4 lots, 3 lots he wants to develop plus the fourth one that is going to stay in ag use. Are you going to require he sign a waiver of ag exemption on all 4 lots or just the 3 he's developing? If you make him sign a waiver on that 4<sup>th</sup> lot, he's going to be very upset that he's going to have to jump through every hoop on anything he does to that ground. He's going to be paying fees for structures he wants to put on it, even though they're ag. I'm just looking at any problems we could anticipate.*

Mr. Nelson said he thought they would ask him to sign a waiver because the consideration involves 2 acre lots.

Ms. Zellmer Zant said if their intent was to control growth, the commission did not want everybody who has any kind of land in the county, 40 acres or not, to say, "Okay. I still get to be exempt. Why don't I break this off into 3 lots and I still get to be in AG."

Mr. Pylelo shared another example of a typical scenario in the Planning and Zoning office;

*Another possible scenario is the farmer might want to split 3 parcels off his 40 acre tract, give 1 to his grown son, and continue to farm the other 2 along with his remaining land because he doesn't intend to do anything else with those other 2 smaller lots yet. Are you going to make him develop his whole quarter-quarter?*

Mr. Rorholm commented what they wanted to get away from was the flag lot situation with the, what he called, strip development with 2 acre lots that come in with multiple entrances throughout the area. That is what has been going on.

Mr. Pylelo felt making the farmers develop the whole 40 acres, which is what Rorholm confirmed they would be doing, was a whole other issue.

Mr. Simpson asked if lot 4 could be designated an "out lot" rather than a "lot." He explained it could be defined in the *Definitions* part of the ordinances as "*a parcel of land that has not been approved for development or improvement with buildings.*" He further explained that would mean a waiver of ag exempt for lots 1, 2 and 3 and the out lot would still have the same rights that it previously had.

Mr. Rorholm agreed that the situations Pylelo described may happen more than some of the other issues they would be talking about. Rorholm thought the commission might want to determine how close to the lot line buildings can be as well as other things that might or might not be available in the out lot. He thought they might want to have some restrictions without completely excluding ag. It wouldn't be as liberal as farm exempt agriculture where you can do what you want regardless of the regulations for everyone else (i.e. putting buildings right on the lot line). Rorholm felt that would be counterproductive to a subdivision, and this situation being considered is a quasi-subdivision with an out lot. In this 40 acres, Rorholm felt there should be some restrictions with setbacks and nothing else.

Mr. Pylelo asked Rorholm if he intended to do anything to protect the future owners of lots 1, 2, and 3. Mr. Rorholm said that was his intention with his previous comment. He thought some restrictions were needed so future owners of the 3 lots wouldn't be infringed upon. He said the owners "might be family today, tomorrow they'll sell it, then it's not family."

In further explaining the point Mr. Pylelo was making, Mr. Simpson said it would be a "disincentive" to develop a few lots if the farmer has to give away rights on the entire 40.

Mr. Rorholm said the purpose would be to discourage those kinds of developments around the county. In an agricultural area with a lot of 2 acre lots, the kind of developments the commission would encourage are families who have multiple children and want to give them a slice of the pie and if they want to live out here with the folks we believe they should be able to do that, but the land remains agricultural in nature.

Mr. Marx asked if it was within state code, could we put setbacks on farm exempt land when it abuts development.

Rorholm said rights would be waived on that 40. Pylelo said it amounted to a reverse setback.

Pylelo suggested possibly inserting a building zone or a "use zone" where you can only put your livestock operations, or whatever it might be that would create issues, between the 2 types of uses in a certain area. He added there might be a separation distance between lots 1, 2 and 3.

Mr. Rorholm thought they should be able to do that and still be agricultural in nature.

Mr. Pylelo said this amounted to a somewhat significant document to cover these issues that would be a condition of the approval of the final plat.

Mr. Marx asked if this was in line with the legalities of reverse setbacks in ag exempt land.

Mr. Pylelo said they are legal but they are not legal on exempt land unless the owner agrees to give up his right to ag exemption.

Mr. Rorholm said because they are out in the country the conditions should not be too restrictive, but he said you don't want somebody building something right on the property line. If the owner was going to build a livestock feeding operation there, there would have to be some way to include a buffer zone that would have to be discussed. However, the country is the place to do this sort of thing.

Mr. Simpson suggested a guy might come out into the country and put a confinement feedlot right up against the rear of these lots and under that scenario we hadn't required him to forfeit any ag exemption rights. The same thing could be said if this 40 was developed the way the commission thinks they would like to see it developed. If there were lots covering the entire 40 and then the next 40 is exempt, there's always the potential of an interface between relatively small residential lots and full blown agriculture.

Mr. Pylelo said they could require the rear setbacks be more significant distances than the subdivision approval.

Mr. Rorholm commented that the unpleasant aspects of facilities such as hog confinements is what those who build out in the rural areas risk being exposed to.

Mr. Simpson asked if, when the commission is working on the subdivision regulations, they want to have provisions for outlots that are unbuildable parcels for cases like this and remain usable as exempt agricultural land. It could also be said the flag lot is a potentially buildable lot. The whole parcel might have an AG exempt label or have a choice of having AG exemption or not. Mr. Simpson defines the *"outlot" or "flaglot" as the balance lot that isn't part of the active subdivision.* He said Mr. Pylelo's point is the typical owner isn't going to want to waive their right to farm unrestricted on this type of land.

Ms. Zellmer Zant suggested the subdivision owner would think twice about dividing a parcel of land that leaves an unbuildable flaglot because that would put it in line with what the commission would like to discourage in the first place. Mr. Simpson acknowledged the validity of this comment.

Mr. Pylelo suggested if the subdivider knows he will have to relinquish his AG exemption, he may decide to develop the entire parcel rather than keep a flaglot that can't be used for agricultural purposes.

Mr. Simpson said this simple resolution would satisfy a certain part of the market.

Mr. Rorholm didn't believe a subdivision should develop any further than the 40 acres it is built on and all normal agricultural activity should carry on around the subdivision with the same exemptions it enjoyed before.

Mr. Pylelo said the restrictions would be on the part of the subdivision owner. Any buffer area would be built within the plat at the subdivider owner's discretion.

Mr. Marx asked if a reverse-setback would have to be applied for a subdivision placed on the back end of 40 acres when there would be a flag lot between the houses and the road. Marx wanted to know if the primary structure could be farther forward toward the fence line since the road is so far away. Mr. Rorholm said it could possibly require an internal road system.

Mr. Rorholm discussed other considerations for 40 acre subdivisions. He said one would have to be able to provide a means to connect to an interior 40. You can't set up something that land locks something in the interior. Despite extensive discussion, Mr. Marx was adamant an adjacent owner to a landlocked parcel was not required to provide an easement or other access to owners of the enclosed land. Mr. Marx agreed to research the matter.

Final word for Mr. Simpson; "If he wants to develop, he's gotta follow the rules."

Final word for Mr. Marx; "If he wants to develop that ground, then he's gonna have to pay someone."

Mr. Pylelo and Mr. Simpson both said discussing subdivisions roads, etc. is much like talking about potential cities which includes the same kinds of public road systems.

- RR-rural residential: Essentially the same standards for development as the AR with a different use list; it contemplates subdivisions; and as part of waiving the right to the AG exemption they also accept in the RR zone that there would not be any agriculture allowed in these 2 acre lots. This is in essence a zone that would create rural subdivisions where people don't want their neighbors to have a horse, three ducks, or whatever. They want to be able to live in somewhat peace and quiet. However next door to the RR development there could very well be something that isn't RR and doesn't mix with the standards they desired.

Mr. Pylelo added for the record the intent is the RR District in Woodbury County would be very, very small; significantly less than the former R-1.

Mr. Marx commented all the people that came to the commission (with the previous development plan) with R-1 said I've got my 2 acres and I've got my horse...

Mr. Pylelo interrupted and explained for those people that zoning district would not be used. AR would be the appropriate district to use for them.

Marx asked where RR would be used. Mr. Simpson explained RR was for the developer who had people who wanted a home in the country but did not wish to have or be living next to other home owners who had horses, ducks, chickens, or any other farm animal. It was their right to have this intent with their choice of country living.

Mr. Marx did not understand why developers could not address not having farm animals in the subdivision in a covenant rather than in the district regulations.

Mr. Simpson explained the problem with covenants is they are going to be enforced only by somebody suing their neighbor.

Mr. Rorholm added the county did not want to deal with covenants. Mr. Simpson said the Board made that very clear to him.

Mr. Pylelo said at worst the RR zoning will be used only in the places it fits. At best it's not used anywhere, but it allows a developer who wants that to ask his property be zoned RR. He in essence is saying 'I want to use your rules and where I don't think they're tight enough I'll tighten them up by covenant.' We have nothing to do with it unless our standard is equal or higher.

Mr. Simpson said this zoning district will typically have subdivisions that are butted up against an urban area. This district is likely to be applied, for example, somewhere out east of Correctionville.

Mr. Pylelo said these zoning districts allow people the flexibility of choices.

- SR-suburban residential: This is for lots that could be described as urban in scale; 10,000 square foot minimum lot size which allows as a conditional use multiple families. The entire scale is what would fit into typical newer urban-type development that would be subject to access to adequate water/sewer facilities to make them work out.
- GC-general commercial: Its purpose is for limited commercial uses that are compatible with and serve the agricultural sector of Woodbury County. The list of uses would be in the table. The general idea is that general commercial might occur anywhere in the county, but should be only along paved roads and be for businesses that relate to the adjacent development whether it's agricultural or perhaps it might show up along the periphery of any urban area. The road should be paved to it. It should generate enough traffic that it would be prudent to put it on a paved road.

The dimensional standards of both GC and HC are the same; 2 acre minimum lots, 200 foot minimum lot widths, front setbacks of 50 feet, rear 40, side yard 10, corner side 25, maximum height 45'. *(It was decided at the end of the meeting to table the standards. The commission and Mr. Pylelo reached an impasse on lot size.)*

- HC-highway commercial: Intended for those uses that serve highway traffic. They would be limited to specific areas along the major highways and particularly at the intersections or interchanges of the interstates and intersections of highways such as Highway 20 and other major travel ways. The idea is as few sites as possible serve the needs of the traveling public along those highways.

Mr. Simpson said unless a business is ag based or serving the motoring public, there really is no reason for it to be outside of a city. A discussion ensued with Mr. Simpson deciding it may be necessary to make adjustments in the adopted plan to loosen the descriptions of General Commercial. There are too many "county roads" to deny some general commercial uses to all of them.

Mr. Simpson asked if the commission thought there should be one commercial zone instead of two. The general consensus was the county needed both.

Height limits can be exempted for structures such as grain elevators.

- LI-limited industrial: Large industrial plants such as ethanol, biodiesel, gelatin, etc., or light manufacturing plants. This zoning district is where Mr. Pylelo and Mr. Marx prefer adult businesses be placed.

Lot size was discussed for Limited Industrial. Mr. Simpson found an ordinance that stated a business having **private** well and septic required 3 acres, whereas if it had a **public** well and septic 10,000 square feet were required.

Mr. Pylelo said that made sense, but 3 acres seemed like a lot of commercial ground to have to make someone buy when they might put up a 2500 square foot building. Mr. Marx agreed. Mr. Rorholm said a person with a small business could feasibly need less land than a house to accommodate his business's sanitary and waste needs.

Mr. Simpson didn't think 10,000 sf was enough to do a small business in a reasonable manner. Mr. Rorholm asked if the commission thought there would be a lot of variances for lack of adequate space. Mr. Pylelo said in 3 years he hasn't had a variance for area for commercial property because there was no minimum.

Board of Adjustment member, Mr. Gard who was commenting from the audience, said part of the regulation needed to be instated for employee parking, landscaping, buffer areas from incompatible businesses and possibly retention ponds for runoff.

Mr. Rorholm said the reason for storm water retention is it could impact the drain surges out in the county. A storm surge system such as at the mall was not designed to take all of the runoff from all the roof area in the parking lot so you have to lead it into the system. Essentially, the runoff systems would have to be designed per specifically planned business in the LI district.

Mr. Simpson asked if the commission wished to return to the 2003 ordinance which said "no requirement." Several members said "no." In fact there were additional provisions needed; i.e. for saturated industrial and toxic waste. It was further suggested the commission could make all commercial and industrial development "planned development" because this would require an overview.

Mr. Simpson suggested consideration of Plymouth County's process. They don't have anything in their commercial or industrial zone allowed as a matter of right. It is all "Conditional Use." Everything built there goes through the Board of Adjustment and a public hearing is required. Plymouth County's Planning Commission makes a recommendation to the Board of Adjustment on all Conditional Uses.

This was felt by all to be too cumbersome. Mr. Simpson suggested Plymouth County as a contrast to a more reasonable process of setting the standards, letting the people bring the plan in, letting the staff person review the plan to make sure it meets the standards, and if it

does, giving them their permit.

- GI-general industrial: *(This was tabled until the next meeting.)*
- RMH – Mobile Home Park Zoning District: *It was decided this section would be moved to Supplemental Regulations.*

It was agreed the next meeting would be a regular meeting on 2/27/06. The commission would meet at 6PM for a 1 hour work session. At 7PM they would hear the one scheduled item; then return to the work session until no later than 9PM.

**Ms. Zellmer Zant made a motion to adjourn; seconded by Mr. Nelson; motion carried.**

Meeting adjourned 9:00 PM