Minutes – Special Meeting of Woodbury County Zoning Commission February 27, 2006

The meeting was to convene at 6:00 PM. As of 6:10 there still was not a quorum. The meeting convened at 6:13 PM when a commission member arrived on the 27th of February, 2006 in the Board of Supervisor's meeting room in 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, Christine Zellmer Zant, and Grady Marx; Arvin Nelson was also absent. Zoning Staff Present: John Pylelo and Peggy Napier. From the public Riley Simpson, consultant for Flat Earth Planning, J.D. Burright, Phil Ellis, Nadine Ellis, Phil Ellis Sr, Joe King, and Don Klingensmith were also present.

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

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

Mr. Rorholm wanted to continue a discussion from the previous meeting regarding Highway Commercial Zoning District. He recalled the commission deciding to not have a minimum lot size.

Mr. Simpson said his notes from the last meeting indicate it went from 2 acres to no minimum, but he admitted not making that change in the current text.

Mr. Rorholm said he had sent Mr. Pylelo and Mr. Simpson a note stating he was concerned there would not be a minimum in the ordinances. His reasoning was if the commission thought a house should have at least 2 acres for a septic system, it would seem that at least 2 or 3 acres would be necessary. He wasn't comfortable with saying there is no minimum. If you have a business that has a restroom and there are 3 or 4 people there all day, he thought it was reasonable to think the waste involved is going to be considerably more than if you have and operation or something, whatever it might be, the waste would be considerably more than that.

Ms. Zellmer Zant asked what the policy or guidelines District Health has for the amount of waste generated by one family, two families, etc. or by an industry or commercial property. She said there would surely be some statistics as far as how much room they'll have to have for septic.

Mr. Rorholm said there were design tables for single families, or B.O.D. (Biological Oxygen Products ?) …that should be wasted for a septic system or something like that.

Mr. Pylelo said there is a state statute that controls the amount of drain field required and for single family dwellings it is determined by how many bedrooms are in a residence. For commercial he was not aware of what the criterion is.

Mr. Rorholm suggested it might be by the number of restrooms, the number of people, or it might be based even on the number of square feet or the type of business you have.

Ms. Zellmer Zant said the point she was trying to make is because it seems to be an issue regarding enough room for septic tanks, wells, etc.

Mr. Rorholm said there will be some design standards associated with it, but he thought there should be a minimum size as well. For example, if there were a (Mr. Marx suggested a Pronto station) just by the square foot and the type of business you have there is a table depending on what kind of traffic you have, but he suspected with the customers you might have and restroom usage, it will definitely generate more traffic than a single family dwelling. He wondered if a Casey's could be put on a 2 acre lot.

Mr. Pylelo suggested they look at what they had from 1971 until now except for those eight months when they were with the 2003 ordinances. In General Commercial there were different lot levels of minimum lot area required depending on what went on a CG District. There was also a minimum lot width and some front and rear setbacks that would virtually assure you had some space to put in a drain field. The drain field certainly could go in areas where you couldn't put structures. You can't put structures (Mr. Rorholm added "or paving") on top of a drain field anyway. That's how, even though it said no minimum lot area, the other pieces of the ordinances required there be enough space there to see one fit. If one went down with a 50' front and a 40' rear, it could be argued it would be difficult to put another one in based upon the number of lineal foot of drain field. The other issue is the separation distances from the well which is currently 100' from your well or anybody else's well. That could be an argument for Mr. Rorholm version of minimum bulk area requirements; on the other hand commercial property per acre is relatively expensive, and making someone go out and buy 2 acres when their business might require only 7500 sf is financially cumbersome.

Mr. Rorholm replied he thought you could have a minimum and maybe for anything less than that there could be a variance or a conditional use permit. He suggested a small bakery. There would be a lot of waste there and it's going to take a fairly substantial septic system if that's what you're going to have to deal with it.

Ms. Zellmer Zant said she thought he was getting into something that was more retail which is going to be in a community-type setting.

Mr. Rorholm stated at the present time things such as bakeries and convenience stores were on the list for General Commercial.

Mr. Pylelo wondered if you had a small business in General Commercial zoned district and you meet all your clients someplace else and there is virtually little use, with you and your secretary, for the septic system, and the gas station where you have customers in and out using the facilities all the time, what criteria could you tie it to other than the size of drain field if you needed/wanted more space.

Mr. Rorholm read a partial list of businesses allowed in General Commercial; barber shop, beauty, tanning, Elk Clubs, laundromats, lock smiths…all kinds of things that could be in a General Commercial. Some of the things listed he didn't foresee ever being built, but if they aren't included, for sure they will be built. He said you are always going to have a septic field unless you have sewer – always. And if you have a septic field, like a three bedroom home, a 2 acre minimum is required. He did not know if it would take less land or not.

Mr. Simpson said in some cases it would be less load. Whether you can actually have a septic field that's still going to be functional is another question.

Mr. Rorholm said if you had a minimum and a business owner needed/wanted less, he could plead his case and he could have a variance. He didn't think a variance would be bad to have if they prove their case, but then you have a lot or a parcel of property that is "x" number of square feet, if he sells that, what will they use it for? It is going to be pretty restrictive. It will be a "buyer beware" kind of thing, but they can also get a variance and resolve it. Mr. Rorholm didn't see anything wrong with that.

Mr. Simpson did see something wrong with it. He thought an ordinance shouldn't be designed with the assumptions you will use variances to make it work.

Mr. Rorholm thought using variances will be an unusual thing. His concept was that variances are there to deal with the unusual.

Mr. Pylelo was certain if the commission went with 2 acres as a minimum for general commercial, the office would be hearing a significant number of variances for (illegible) to existing nonconforming lots. He didn't think people would want to buy even 1 acre if the commission zones the parts of the county that fit the general commercial need.

Ms. Zellmer Zant asked Mr. Pylelo; based on his experience and what he knows is out there, based on district health guidelines, whatever statutes he uses as guidelines; what would he recommend.

Mr. Pylelo said to be honest with everyone, he was pretty comfortable with letting the setbacks control the area right now. He didn't remember getting even one variance within the last year.

Mr. Rorholm couldn't think of a lot of commercial uses in the county since he has been involved.

Ms. Zellmer Zant said what she liked about using the setbacks was it provides for green space so you don't have commercial building upon commercial building.

Mr. Pylelo reminded her there were only 50' in the front and 40' in the back with no side setbacks. That's why commercial areas can look almost stripmallish if they're done right.

Mr. Rorholm cited from the new proposed table: <u>General Commercial</u> – minimum lot width 200', front yard is 50', side yard is 10'.

Mr. Pyelo stated he thought there would be more problems created with 2 acres; maybe not with 1 acre or something less than 1 acre.

Mr. Rorholm said if you get rid of the lot area, what will you do with the setbacks? He wondered if the commission had even discussed setbacks.

After Mr. Pylelo repeated the setbacks; front 75', rear 50', sides 10', minimum width 200'; Mr. Rorholm realized Pylelo intended to stay with the same setbacks except possibly the width. It depended on what was "user friendly" for commercial development.

Ms. Zellmer Zant asked about the side setbacks. Pylelo said they were determined by the primary structure. If it was an accessory structure, it would be 2'. He said he didn't remember discussing any new ideas regarding accessory structures in commercial area.

Mr. Simpson said he thought about possibly having a separate chapter for accessory structures, but perhaps regulations for different accessory structures would follow each zoning district.

Mr. Rorholm looked for the notes from the previous meeting to refresh his memory regarding what had been discussed about lot sizes and accessory structures on commercial land.

Mr. Simpson said in his notes he had very clearly changed 2 acres to no minimum. He said the commission and he talked about basically the same thing they were presently talking about; the combination of the setbacks and minimum lot (illegible) which probably create the health (illegible) with large enough lots to support required sanitation.

Mr. Pylelo said Woodbury County's ordinances and policies as it impacts septic systems has pretty much deferred regulation issues, permit issuance to Siouxland District Health. They are our sanitarians, so to speak. They sign off on wells and septic permits, and they have their separate ordinances which pair up with ordinances in other county departments.

Mr. Marx said he didn't want to restrict growth. He was concerned if the commission made it too tough and they make developers buy too many acres, they will go to a different county.

Mr. Pylelo agreed. He said if they stay in Woodbury County, you're forcing them inside the city limits somewhere.

Mr. Rorholm said if the pieces of land get too small and it becomes very expensive for commercial land and they have to come up with a package system (illegible), that may force them into the city as well. Those things aren't cheap and depending on the size and what you do, you may have to have some type of classification of an operator's license.

Mr. Pylelo tried to recall any kinds of issues he might have had in the general commercial area tied to septic systems.

Mr. Rorholm couldn't recall any either.

Mr. Marx asked if they wanted to keep the 200' for the width.

Mr. Pylelo said that was there primarily for the driveway separation distance required.

Mr. Marx suggested the possibility of frontage roads.

Several said that was a possibility.

Mr. Pylelo, to clarify, said they would run into issues with the County Engineer if it's less than 200' and they have a problem with visibility site distance. If they have a frontage road system, developers will have to buy more ground to be able to put it in.

Mr. Rorholm described possible ways around the issues mentioned by having controlled access highways. They only allow access every quarter mile. They can't deny access to someone, but they can control how they do access their property.

Mr. Rorholm said he would not go against the commission's request for no minimum lot size. He said he doesn't see anything in the county that would be done without a septic system of some kind.

Mr. Marx reminded the commission of a question mark next to maximum height. The question was if the commission should allow it to go higher.

Ms. Zellmer Zant remembered talking about maximum height in relation to the possibility of an ethanol plant being put in.

Mr. Pylelo said this would be a one-in-ten-year deal. He couldn't think of anything that would go up in the county that would break the 45' allowance currently in place, unless possibly a motel for the equestrian center, but that would probably be annexed by Moville anyway. If anything did come up, there was always the option of getting a variance.

Mr. Simpson was curious about the difference between minimum lot widths for Industrial (60') and Commercial (200').

Mr. Pylelo didn't have the answer for that.

Mr. Rorholm didn't think the bulk regulations seemed to mesh with the direction the commission was trying to go.

Mr. Pylelo said in the current regulations, which was from 1971, neither Light Manufacturing nor Heavy Industrial had any restrictions with lot area or lot width. Rear setbacks and structures in front yards have been the 2 biggest areas before the Board of Adjustment. Otherwise, in the last 3 years, there has been nothing out of wack except the above 2 things. If no one is coming in and complaining that an ordinance needs to be changed, there obviously isn't too much wrong with that ordinance. Pylelo didn't think the current bulk areas need to be changed. They may need tweaking, but they don't need to be overhauled.

Mr. Rorholm asked the commission to agree to go back and take another look at the bulk areas and see what makes sense. He didn't think they seemed to factor in very well.

Mr. Pylelo said Mr. Simpson did a good job of pulling everything together.

Mr. Simpson said he didn't think it would take them too long to go through it if they addressed those particular issues.

They pulled out the general chart (tables) from the January 5th meeting. Mr. Rorholm opened it to General Commercial. He thought the other zoning districts seemed alright the way they were. Mr. Pylelo brought them to page 13.

Mr. Simpson cited standards for some residential uses in the general commercial zone, but for the others there was no requirement, and they didn't have that zoning in the 2003 ordinance.

Mr. Rorholm asked if the square footage in the one we have right now in bulk regulations was 3500 square feet.

Mr. Simpson said that was for single family dwellings, if you end up with a single family dwelling there. We don't have those uses in the list now, but back then we had R-10 and R-30 uses were allowed in that same zone. Simpson continued, saying last time the commission had decided no minimum was necessary, or rather, primarily the commission decided that 2 acres was probably too large.

Mr. Rorholm summed up: the commission decided no minimum and the minimum lot width was 200'. That was in the 1971 ordinance. Ms. Zellmer Zant added that was probably driven by secondary roads.

Mr. Simpson read the actual ordinance from 1971. It stated it was the same requirements as in the R-30 district for residential uses and no minimum requirement for other uses. So there was no minimum lot width in the '71 ordinance that we're operating under now. So the commission can say that now if that is what they are comfortable with.

Mr. Rorholm used an existing location on Hwy 20 as an example of the possibility of no lot width. His concern was there would be no access control with no width restrictions. If they had a half an acre lot, they would have a front of possibly 100' depending on how deep they are, and they need to be able to live with their entrances.

Mr. Simpson said maybe they would need a frontage road to collect all of the more narrow entrances.

Mr. Rorholm said you would have to have an access control policy to do that. Every route we have in the state highway has some level of access control.

Mr. Simpson said if it was a county road, the county would need to have that access control policy. If something like this were necessary, the county would have to go out and buy the access rights order to manage it. It can't be regulated. You need to own the access rights.

Mr. Marx wanted to know why they would make an issue out of something that wasn't going to happen that frequently. Why not let the County Engineer decide. He is the one who would be signing off on it.

Mr. Rorholm said there might be some places where that would be appropriate. He suggested what Hwy 20 might look like if the county did not own the access rights. It is a $35/hr roadway. It doesn't make sense to put in that kind of investment in a system and not manage the access.

Mr. Simpson said if they were talking about the difference between a 200' frontage and no minimum frontage the number of driveways (?) be 12 isn't going to be significantly different.

Mr. Rorholm agreed with that because mostly they would be talking about subdivisions.

At this point, Mr. Pylelo asked Rorholm if he would join him and others in part of a meeting with the County Engineer. Rorholm said he would. Simpson thought that would be a good reason to leave the bulk requirements off until the next meeting. They would discuss bulk regulations for General Commercial, Highway Commercial, Limited Industrial and General Industrial, the land area involved with it and the restrictions on the lot widths, depths, setbacks, side issues, etc.

Mr. Rorholm moved forward with work on the tables. Mr. Simpson explained how to decipher the tables.

Mr. Marx said the commission had taken the word "*permitted"* out and wondered what word had been put in it's place. He thought *"allowed"* should be used instead because we want *"permitted"* out of there.

Mr. Rorholm said *"P"* was for *"Provisional."* He didn't see where *"Permitted"* was being used.

Ms. Napier said she had been listening to a tape from a previous meeting where it was stated most plans used *"permitted,"* that it was an accepted word (used in this context) and that it would be clearly defined in the definitions as meaning *"allowed"* and that we would go ahead and keep it the way it was. According to the minutes she was listening to that day, they (the commission) already made a decision on that.

Mr. Simpson read from the sentence in question that *"Principle permitted use is indicated by 'ok' in the table are allowed as a matter of right in the zoning district subject to (?) compliance with general standards required for all uses in the zoning district."* It's pretty clear, but he preferred talking about important stuff.

The commission proceeded to go through the tables one item at a time. Discussion occurred on the following:

- Mr. Marx questioned any limits being put on number of horses on any AG or AR land because horses are considered agriculture in the state of Iowa.

  Mr. Simpson said it was a question of any animal having limits as to how many you can have; that makes it provisional.

  Mr. Marx replied limits don't occur until you go over the head count. He asked what

the head count was before limitations started.

Mr. Pylelo said when there was a *"P"* there it's driven by the ordinance language as to how many you can have.

Mr. Marx said they can't control how many horses you can have unless it gets over – and he couldn't remember the number that kicked in the restrictions.

Mr. Simpson pointed out that there is an amount. Zellmer Zant said that's what makes it provisional. She said it was the same as animal husbandry. Simpson said it was a large number that people would rarely get to because people don't feed out horses the way they do cattle and hogs.

Mr. Marx said he wanted to see those numbers on horses and animal husbandry before he okayed anything in that category.

- Ms. Zellmer Zant asked if horticulture production wasn't the same as greenhouses and nurseries. She suggested it read *"horticultural greenhouses and nursuries."*

  Mr. Marx asked if these were agricultural events, how can thecommission zone anything on them. They're AG exempt.

  Mr. Simpson explained they are exempt, they can exist in any zone, but that doesn't mean that if somebody waives their exemption you want to allow them anyway. If you put them on the list as "ok" all the way across, then you have no ability to regulate them even if people give up their AG exemption, which is what we've talked about for months now. When somebody subdivides, we want them to waive their AG exemption to one degree or another or these species of (?) could be free of having bugs in the guy's back yard next door.

Mr. Marx called the commission's attention to the time and suggested they move on to the next agenda item.

The third item on the agenda was Consideration of the Preliminary Plats for Ellis's First Addition Subdivision – GIS 894627100012; Parcel #878941.

The Woodbury County Office of Planning and Zoning has received a Subdivision application from Phillip M. Ellis as Trustee of the Phillip and Nadine Ellis Revocable Trust. The Trust intends to subdivide two (20 lots totaling 4.08 gross/3.72 net acres. The parcel is located in the NW ¼, Section 27, Concord Township abutting the south side of 140th St. at or near 140th and Carroll Avenue.

Proposed Lot 2 has an existing single family dwelling which is addressed as 1706 140th St. and is the personal residence of Phillip and Nadine Ellis. Proposed Lot 1 consisting of 2.0 net acres is intended for residential development. The Trust's intent is to allow Phil Ellis Jr.,

a son of Phillip and Nadine Ellis, to construct a single family dwelling upon Lot 1. No additional construction is anticipated upon Lot 2.

The property is zoned AG (Agricultural) and not within any floodplain. The intended use is permitted within this Zoning District. The average crop suitability rating for the property is 34.0.

As 140th St. is a gravel, County maintained roadway a paving agreement will be required as a condition for approval. Notification was sent to the 13 property owners within 1000' of the proposed subdivision. To date no responses have been received. Notices were also sent to each of the following Agencies with responses noted.

NRCS: No Response received
County Engineer: No Response Received

DNR: Standard NPDES Permit #2 correspondence dated February 10, 2006 was received and forwarded to the developer for any required action.

McCloud: No Response Received
MidAmerican Energy: No Response Received

Siouxland District Health Department: On February 15, 2006 telephone response from Ron Brandt stating no well and septic issues on either of the lots. Siouxland District Health sees no impact from Lot 2's non-conformance should the subdivision be approved.

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 Office of Planning and Zoning's review of the preliminary plat indicates the following should be noted by your Commission:

Lot 2, consisting of 1.72 net acres, is non-conforming as the 2.0 net acre bulk area requirement is not met.

At their meeting of February 7, 2006 the Board of Supervisors considered the Preliminary Plat and now refers said Plat to your Commission for review and recommendation.

Onsite visits are appreciated.

Ms. Zellmer Zant asked about the DNR letter. Mr. Pylelo explained it was a standard letter to let the subdivider know if more than one acre of ground is disturbed they will be required to get this permit from the DNR. Rarely is that ever going to happen, so the letter doesn't apply to most. It is standard procedure.

Mr. Marx stated it was standard procedure because we send the letter to the DNR. He thought that burdened the property owner. He asked to talk about that after they were finished with the Ellis item.

Mr. Pylelo said that was up to the commission's recommendation to the Board to delete them from the list of approved agencies that get a copy of the preliminary plat. They may refer it to legal counsel to see if they can delete the DNR. The whole purpose of having a public hearing is getting all the necessary input required to analyze prior to your group making recommendation for or against.

Mr. Rorholm said he didn't think that was a wise decision and he told Mr. Marx he wouldn't support it. He and Mr. Pylelo agree it deserved discussion later.

Mr. Rorholm asked if there were any other comments by the commission.

Ms. Zellmer Zant said considering that the other lot was less than 2 acres, had they considered the possibility of Mr. Ellis Jr.'s parents eventually not living there and the possibility of living in such close proximity to strangers. Mr. Ellis stated he and his parents had discussed it and didn't see that as an issue.

Mr. Pylelo said it had been explained to the Ellis's should they try to sell its non-conformity might affect its marketability. The Ellis's need to disclose the fact they have created a non-conforming lot with this subdivision to anyone interested in purchasing the lot. Ellis's agreed to this.

Mr. Marx made a motion the commission accept the plat as presented. Ms. Zellmer Zant seconded the motion; motion carried subject to the paving agreement and disclosure.

The fourth item on the agenda is continuation of a work session regarding the drafting of zoning ordinances for Woodbury County related to the County's 2005 General Development Plan.

The commission started with a discussion prompted by a suggestion from Mr. Marx that instead of telling developers what they can and can't do on their land, giving them a number of suggestion, or ideas to choose from of possible things they could do. Mr. Rorholm said there could an infinite number of things people might want to do.

Mr. Pylelo pointed out the way "the world really works." He suggested a developer adopted a list of covenants, sold all of his lots and left. Mr. Rorholm continued saying it is up to the Home Owner's Association to enforce these same covenants. A new lot owner can't build a shed or paint his house without running it by the Association first.

Mr. Pylelo said after a while many Associations lose their impetus over time, they unwind, and you have a bunch of ordinances the county mandated, and then the rules aren't followed, there is no infrastructure to enforce them through the Home Owner's Association. People are

going to be looking to the county to enforce those if we require them, and we might have some legal right to do that if we made a requirement through the ordinance. He said his office would not get the support either from the sheriff's department or the county attorney's office that it would need to enforce those covenants.

Mr. Simpson said the Board of Supervisors was very clear they did not want to get the county into the business of enforcing covenants.

Mr. Marx said the Board can change from year to year and he thought covenants were definitely the way to go.

Mr. Simpson said it was a dreadfully expensive proposition over the long haul to think about involving the county and the county's tax payers in suing other taxpayers to get them to move a shed, do this, do that.

Mr. Rorholm agreed that would be a nightmare. He didn't see this Board going along with that. He didn't think any rational person would like to see that.

Mr. Marx asked why places such as Scottsdale, Arizona and the bid cities have covenants if they are so unpopular.

Mr. Simpson said the only big city he knew of that operated primarily on covenants is Houston. He agreed there were covenants everywhere, but he wasn't aware of any city or county that actually takes part in enforcing those covenants. Houston doesn't have zoning ordinances. They do everything with a special (illegible).

Mr. Rorholm said you have to have some assurance some character isn't going to come in with some nonsense that is going to take your trophy home and cut the value of it in half. You have to have some civility associated with it.

Mr. Marx stated he thought that was what covenants were.

Mr. Rorholm said that was true, but so is zoning regulations. These are so minimal.

Mr. Pyelo said he didn't think Mr. Marx had the majority of the members present who supported his position on covenants, and he wished to move on. He suggested he could bring it up again when all the members were present. But at this point when there isn't a quorum to vote on anything, it needs to be dropped so the commission can move on or they'll never get this done. He wasn't saying this was a dead issue – at this point he needed to do a sales job with each of 5 members independently.

Mr. Rorholm also stated he didn't think Mr. Marx understood the complications of covenants and maybe they should get the county attorney involved to give them an accurate description.

Mr. Marx said he didn't think the county enforces covenants. He thought it was a civil matter.

Mr. Rorholm said that was correct, and the county shouldn't be telling the people what covenants to have.

Mr. Simpson pointed out it amounts to the commission telling them we'll approve their zoning or subdivision if they have this list of covenants and then expect them to enforce them on themselves. He said the commission would be wasting their time, because for neighbors to sue one another, something is pretty rotten.

The commission moved on.

The next item they discussed was where nursing homes could/should be placed in the county. They decided to place it as a conditional use in AR, RS, RR (rural residential). They later decided to include it in GC as well.

Ms. Zellmer Zant asked if they could change the name of "RR." Mr. Simpson said he had it listed as "NAR" (nonagricultural residential).

They discussed Boarding Houses. Mr. Simpson wasn't sure they existed anymore. They decided to strike it and if it comes up, the Board of Adjustment could decide where they wanted to put it.

Mr. Marx asked if the equestrian center was not going to be in Moville, would it be in a GC zoned area or PD (planned development).

Mr. Simpson said if they were talking about a facility that will be used for exhibitions, events, and so forth. He stated under Agriculture and Agricultural Businesses where it says horse stables, he would interpret that as meaning people who own horses and that is where they keep them as opposed to and event facility. He said that was a conditional use permit under GC and then Planned Development.

Simpson suggested adding another category just for planned development.

A place for fairgrounds and event centers should be accommodated somewhere in the list.

The next category was Detention Facilities. Mr. Pylelo said about the only place it could be placed in the county was AP. He said the Industrial area wouldn't work because of the occupancy issue. It was also conditional use. Neighbors would want to have a hearing on it.

It was decided dormitories and other group quarters be put under SR and PD. In fact PD was added down the entire list.

Sororities, homeless shelters, and nursing care facility were eliminated.

It was discussed how realistic it was they would be seeing rural water in the county. Having rural water changed the possibilities of what could be in the county.

Guest house or workers quarters were discussed because of the possibility of landowners using that as an excuse to add a second primary structure on their land. Mr. Pylelo asked the word "guest" be eliminated from the description and it made clear this secondary structure

was suited for only other family members or farm workers. Mr. Marx's definition of the "grandfather's house" was brought into the discussion considering extended family.

Mr. Rorholm suggested making it an accessory structure for AP and AR as a permanent structure, no mobile homes.

Ms. Zellmer Zant considered the entire issue a "rat's nest" mainly because, if the worker or whoever is occupying the second structure leaves, the owner will tend to want to rent out the single wide trailer or whatever it is. The county finds out about it when someone turns him in, planning and zoning has to investigate it, tell them to remove it, and so forth. She feels the whole idea of worker's quarters is passé because most people she knows who have employees have their own homes.

Mr. Marx stated there are people on his farm watching his animals living in his "accessory home."

Mr. Rorholm said to leave it as a conditional use permit in the AP zoning district.

The discussion continued. Mr. Marx cited an example of a family needing to subdivide in order for parents and their son to each have homes close to one another. Marx thought the gentleman should have been able to live his life out in that "guest house." He said that's where the commission should make some provisions. He said his folks were getting older and he would rather have them live right next to him in a guest house.

Mr. Pylelo said the commission had the power to make a recommendation to waive the sole primary structure requirement.

Mr. Simpson said in the scheme of things it would be a relatively short period of time before that second parcel is going to be sold to somebody who is not related.

Mr. Marx said it couldn't be sold off because it would be part of one parcel that includes the guest house.

Simpson said he guaranteed some people aren't going to have the foresight to put the guest house in a location where it can be subdivided off. They will screw it up and not have allowances for setbacks or they'll have a joint driveway or some other mess.

Marx insisted that it couldn't be sold or subdivided off. It would be a guest house and if they put it in the wrong place, it's their problem. It they put it in a place where it could be subdivided, they could do that if they decided to sell it off later in a subdivision.

Final word was it needs to be defined as a place for an auxiliary family member so you can keep the family together and farm the ground, or for a worker.

Mr. Marx was still unhappy with the categories one item was listed in on page 1. He was not happy with "Animal Husbandry." Mr. Simpson suggested under Animal Husbandry we put parenthesis and add "including dairies, horse stables…"

Mr. Marx said all of that was AG related.

Mr. Rorholm said when Marx said "those people" he was talking about small 2 or 3 acres, and there possibly are limitations to what you should have on that kind of property just from a sanitation point. DNR does have some concerns about how the waste runs off your land. Rorholm asked Pylelo to get the DNR rules…whatever control they have over livestock.

Mr. Pylelo said they were talking about livestock compliance rules which are tied to animal units – Marx wanted to know where it started at, how many head. Pylelo said to do a management plan he believed it was 1,000 units. But he believed you would need a manure management plan if you meet 500 units. A horse counted as 2 units, so it was 1,000 horses and 500 cattle. This proved to Marx that all of the things in the whole first column should be AG exempt.

Rorholm said he didn't think that was necessarily true and he cited an example of a feedlot including some that are close to Sioux City where the ditches turned septic. They went to the DNR and they made them manage the runoff from the feedlots. He asked Pylelo to get the factual information from the DNR sources before they committed any language to the issue.

Marx repeated all of the things in the agricultural/ag business is exempt except kennels and they have conditional use so he didn't see that as an issue.

Pylelo said he would get the facts.

"Offices Uses" was discussed. Mr. Rorholm asked if "Residential Mix" needed to be there. Residential Uses implies residential uses mixed in with other uses; i.e. a strip mall mixed in with a residential area.

Pylelo said if commercial development is being espoused in a residential area, it's a rezone review scenario. He admitted not being crazy about having a "mixed use" category at all.

A discussion ensued regarding what defines a "farm." Mr. Pylelo asked Mr. Simpson if he wasn't requiring an element of participation in his definition of "farm." Simpson said for that use of land to be called a farm, whoever is operating that land is filing a Schedule F. In the definition of what is not clearly called a farm, according to the language Mr. Simpson read, it is up to Mr. Pylelo, as Zoning Administrator, to make the call. If there is a disagreement, the Board of Adjustment will make the call. Mr. Pylelo has an affidavit available that states one has filed a Schedule F to help him determine if one is exempt.

Mr. Marx disagreed with #C definition of farming that Simpson read:

> *Any significant, that is not incidental use of land, that includes agricultural production, defined as cultivating the soil and producing crops or raising livestock for food, fiber, fuel or other consumer products or utility shall be interpreted to be a farm. As part of the determination of the term significant and incidental it is held that farming does not include gardening or keeping animals for personal use or recreational or hobby uses.*

Mr. Marx didn't feel that would fly.

Mr. Simpson asked Marx what was farming about your personal garden or keeping animals for your personal or recreational use.

Marx asked about a person who owns horses, breeds them and sells them as livestock.

Simpson asked if he filed a Schedule F. Marx asked Ms. Zellmer Zant if she filed Schedule F on her horses. Zant said she filed Schedule F on everything. Marx said he didn't believe Schedule F was required for some people.

Mr. Simpson said he saw the farm exemption as being in the state code to protect farmers; not to protect somebody who decided he wanted to have a pony to ride.

Mr. Rorholm conceded that was a good point; but said there were a lot of people at the meeting (with the development plan that had been thrown out) complaining about what happened because just that happened.

Mr. Simpson said if they are put in the zoning district that allows them to have horses (such as AR), they don't have to be exempt. If they are in either an AP or AR zone, we don't care.

Mr. Marx brought up the new "NAR" zone that is replacing "RR." He presented an example of having ten 2 acre plots in the NAR zone and he farms it. Would he be exempt? The answer was *"yes,"* if he was farming it. Even if it was a subdivision of ten 2 acre lots, if he was farming it, he would be exempt.

Mr. Simpson said when he applied for the subdivision, presumably he would be asked to waive his AG exemption. However, regardless of whether he waived it or not, you would have the right to continue to farm there as long as you continued to farm. It would be grandfathered in.

Mr. Pylelo said he structured this so it would be easy to tell whether someone is farming or not. Simpson said he pointedly said having a pony in a lot behind the house does not make you a farmer. If that horse is a business enterprise, that's a different thing. But if you want to have a horse because you've always wanted a horse, that doesn't make you a farmer.

Mr. Rorholm said this needed to be explained clearly at the town hall meetings.

A discussion ensued about zoning issues and misinterpretations about whether taxes will go up or not.

The last pieces of information Mr. Simpson went through without many questions.

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

Meeting adjourned 9:10 PM