# Minutes – Special Meeting of Woodbury County Zoning Commission March 13, 2006

The meeting convened at 6:08 PM in the Board of Supervisor's meeting room in the court house, Sioux City, Iowa. Present were the following Commission members: Don Groves, Dwight Rorholm, Arvin Nelson, and Grady Marx; Christine Zellmer Zant was absent. Zoning Staff Present: Peggy Napier. Mr. Pylelo was absent. From the public Riley Simpson, consultant for Flat Earth Planning, and Ken Gard were present.

**The first agenda item was the work session and discussions of the Woodbury County zoning ordinances.**

Mr. Groves was discussing the provisions for the zoning ordinances from Article I. The wording included *"…the protection of both urban and non-urban development."*

Mr. Marx asked if it wouldn't be better if *"unincorporated"* was used in place of the word *"urban"* because urban areas don't concern the zoning commission. They would reflect incorporated parts of the county.

Mr. Rorholm asked if that was what he was thinking of when he heard the word *"urban."* He said he considered there might be subdivisions that could get pretty tight and lean toward having urban needs.

Mr. Simpson didn't think it would hurt anything to make it specific to rural or unincorporated areas of development in the county instead of both urban and non-urban.

Mr. Simpson agreed and quoted the new statement to include *"…for the protection of development in the unincorporated areas in Woodbury County."* In context it now reads;

> *…the protection of development in unincorporated areas by regulating and limiting or determining the height and bulk of buildings and structures, the area of yards and other open spaces, and the density of use.*

Mr. Marx asked if the commission was doing the farm exemption right. He wanted to know if we had to make people proof with their financial position that they were farmers. Was it legal to do that. Page 2, A,B,C and D will prove a farm exempt status. Only one of them is enough for proof, but is it legal to ask for their Schedule F.

Mr. Rorholm asked if Schedule F wasn't a public document.

Mr. Simpson said it is part of your Federal Tax Return, and as such, is not a public document. If he attests to filing it, in other words if he signs an affidavit saying he does file Schedule F towards the operation of this property, he is giving a sworn statement. I don't think John has any expectations he is going to get people's tax returns.

Mr. Groves, on that same subject, said he saw Mr. Simpson included in the statement verifying someone is a farmer it includes 20 acres or more.

Mr. Marx said 20 acres would verify it is clearly a farm.

Mr. Rorholm had a question about the clarity of the second verification. It reads;

> *Any use of land that occupies 20 acres or more of land that is not clearly non-farming (i.e. a residence of a commercial or industrial enterprise) may be interpreted to be a farm.*

Mr. Rorholm asked if it couldn't be stated *"…clearly farming…"* instead of *"…not clearly non-farming…."* What you're trying to say is if it is clearly being used for farming purposes, it is exempt.

Mr. Simpson said even if it is less than 20 acres and is clearly farming, it is exempt. But what this is saying is, if it is 20 acres and you could interpret it one way or the other, the presumption is that it is farming. This is true unless you can look and it and say that's a truck stop or that's just simply a house.

Mr. Marx asked Mr. Groves how much land he owned totally. Groves said about 13-14 acres. Marx said according to that, his ground is farm ground then. He would not qualify.

Mr. Simpson that was true. He would not qualify. However, if he filed a Schedule F he would.

Mr. Groves said that was his question. Mr. Nelson is the one who plows it but he didn't know if Nelson filed a Schedule F on the land.

Mr. Simpson followed this up with the next paragraph;

> *The residence of the owner or operator of property determined to be a farm, if adjacent to said farm shall be assumed to be a farm house and therefore also exempt from the requirements of this ordinance.*

That is saying, according to Simpson, not only is the farm exempt but the residence of the operator or owner if they are on that site, are also considered farm houses and they are exempt.

Mr. Rorholm said that was pretty general and wide open.

Mr. Groves said he didn't consider himself a farmer, but Simpson said he was because his land was being farmed.

Mr. Nelson said he does consider him a farmer because he has a great big garden.

Mr. Marx wanted to use an extreme example. He suggested you grow a very good garden. You have a gazillion tomato plants and you go down to the Farmer's Market downtown and sell your tomatoes and you make an income of X amount of dollars and at the end of the year you simply report that as other income. You don't have to file a

Schedule F, do you. Can't you show that other income as simply "other income," a thousand dollars in cash or whatever the number may be. Is that considered farm ground?

Mr. Simpson re-read Section C where it says;

> *Any significant (i.e., 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 terms "significant" and "incidental", it is held that farming does not include gardening or keeping animals for personal use or recreational or hobby purposes.*

Mr. Marx said he is selling that at the Farmer's Market and that money is income. Is that farming?

Mr. Simpson said that is where the Board of Adjustment may get called in and they get to make a determination after John says "no" they appeal.

Mr. Marx asked if they remembered when they had a meeting at WIT, where that guy used that infamous strawberry plant? This is a good argument because do you know that organic stuff that what's his name is trying to promote? He may start off with a garden that's organic, but then the garden gets bigger and bigger.

Mr. Simpson asked where the hazard was for him if he is or isn't exempt as far as this operation of this garden at his house? If he has to buy specialized equipment to handle this crop, that may tip it and it will definitely be a farm. He didn't think that was a big question.

Mr. Marx said that brought him to his next question. It says "the Zoning Administrator shall be responsible for determining that." Why do we give all that power to one individual?

Mr. Simpson said one person has got to make that determination. Actually, the way it works is the Zoning Administrator has to do the day to day decision making and if somebody doesn't like what the Zoning Administrator says, they can appeal it to the Board of Adjustment.

Mr. Marx asked if the farm people, AFCS, would they bill to overrule John? They could say "That man is a farmer. He has tomatoes for sale. Where do get our farm numbers? From Farm Services? Would they be a determining fact; saying "yeah, that is a farm, that's not a farm."

Mr. Simpson said they could not make a determination after the administration of the zoning ordinance.

Mr. Marx said, "What if he's wrong?"

Mr. Simpson said, “Then it’s up to the Board of Adjustment to say, ‘We don’t think you were right (illegible).

Mr. Groves said he didn’t think the zoning commission didn’t want to be bothered with every body coming down with 10 questions about whether they were informed or not and they have to come to this board.

Mr. Rorholm said the whole intent of this is to Preserve Agriculture.

Mr. Groves said, why would anyone want to be classed as a farmer. What’s your reasoning for it.

Mr. Marx suggested you might need something special to handle this crop of tomatoes. So now you need to get a building permit to build this building to house your tomatoes.

Mr. Simpson said if you are building a building for the tomatoes, that’s a farming operation.

Mr. Groves said if you have something big enough that you have to build a building or buy this equipment to do all this and that, you’re going to be big enough that you’re going to be doing it. But I’m talking about, even if you only have 30 plants and you want to get rid of them, I don’t think that constitutes a farm. That’s not farming.

Mr. Simpson said he thought the question comes down to are you doing it as an active way to supplement your income or is it a hobby that just happens to have some financial gain attached to it for a couple of weeks in the summer.

He addressed Mr. Marx and asked he be aware of is what Section C says in the last sentence:

> *It is held that farming does not include gardening or keeping animals for personal use or recreational or hobby purposes.*

What that really is saying is that the line is drawn so that when somebody has a couple of horses they are keeping for their own personal enjoyment, that is not farming. That is a hobby they get a lot of good feelings from.

Mr. Marx said here was where the fine line comes in at. You might find some stuff in these (distributes copied material). They may raise colts over here out of their 2 or 3 head and they may sell them, and that is farm income because that is livestock.

Mr. Simpson said frankly, if they’re filing a Schedule F on them because it is something they’re doing as a business enterprise, then fine. They’re farming. But I suspect that 90% of the horses that are roaming around out there on acres, the people out there don’t have a thought in their head about farming. It’s more, I moved out here on this acreage so I can keep a horse because I really want to have a horse. As long as they’re in an AG zone or and AR zone, they’re going to be fine. If they happen to be on one of those zones that does not allow agriculture, they may have an issue and they may not be exempt.

Mr. Rorholm said those subdivisions exist because they had to sign those off as non-exempt.

Mr. Marx said that was good. That was what they were trying to do is make those non-farm exempt.

Mr. Marx then said to turn it around the other way. Those are his personal horses and he's not AG, so he can have them as long as the ground allows. How can you not give him that 2 acre piece to have a horse on if you can do it within the city limits of Sioux City?

Mr. Simpson said you have to have 1 acre to have a horse in the city of Sioux City.

Mr. Marx said there we are being more stringent. He said to forget the AG exempt stuff because they're not AG. They're using it for personal use, the guy has a garden and he has 2 horses and kids riding on the country road. How do we tell him he can't have those animals?

Mr. Simpson said we're not telling him he can't have them.

Mr. Marx said, yes, if they look farther down on the page it does tell him that. He's in the one of two acres where he signed off on the AG exemption.

Mr. Simpson said if he signed off, that's what is telling him he can't have the horse.

Mr. Marx said, but now you're saying it's a personal use. What is it? Is it AG or personal use?

Mr. Simpson said when it comes time to have a horse in a zone that does not allow a horse and they signed away their AG exemption, it doesn't matter whether it's for personal use or not. They're not allowed to have a horse.

Mr. Rorholm said, if you're going to have a development that is defined as non-AG residential zoning district and you buy in there, you're not going to be able to have any of those agricultural animals. You have no business even buying the land. If you do, you made a humongous mistake.

Mr. Marx said he wanted to make some sense to it.

Mr. Simpson said it's not like we're saying there will be huge areas of Woodbury County where you wouldn't be allowed to have a horse. He thinks it will amount to very few little parcels here and there and it's going to be because the developer wanted to put together a little subdivision that will appeal to those people who don't want to have horses and didn't want to be around horses.

Mr. Marx thought that developer would have a right and the commission should try to allow him to do that and you can do that with covenants.

Mr. Simpson said in essence, when he signed away his rights to that AG exemption, it's almost like a covenant, except that he's basically accepting what the zoning rules are for that zone. It's two things; it has to be zoned NR or SR, and they have to have signed the waiver. There isn't any point in Woodbury County at this point in time that's signed that way that I know of. So it's going to be somebody from this date forward who has consciously said, "As

part of my development here, I want to waive my AG rights in order to create a non-agricultural environment for the people who are going to be living in this subdivision.

Mr. Groves commented there was a couple down by the old turkey farm who wanted it residential. They did not want any animals. It's on Correctionville road just off of Hwy 20 by Charles Ave.

Ms. Napier commented there would be areas zoned for horses and not for horses co-existing in the rural areas of Woodbury County. You just have to be careful to select the areas to live where you will be allowed to do the things you want to do. Mr. Groves and Mr. Rorholm agreed.

Mr. Marx asked if the commission could put another category in the tables. There are developers who like the golf course environment. They don't want the smell. There are some developers who want these little 2 acre things…

Mr. Rorholm interrupted informing Marx that was AR.

Marx said…but you've signed off on the…

Mr. Simpson said with AR the only reason you sign off on it is so you can limit the density of the livestock. That's the purpose you sign off from the AR is so you can say you have 5 acres here, that gives you 5 animal units or whatever the number ends up being.

Mr. Marx said "You're not going down that road, are you? Let's do that later. I've got that argument here."

Mr. Simpson said that was the reason for having the waiver on the AR.

Mr. Marx said he didn't think you could do that, but let's finish this discussion first. Could we make a group in between the NR and the AR for those people who want the goats; for those people who can only afford a couple of acres but want to have farm animals?

Mr. Simpson and Mr. Rorholm both said that is what the AR is for. Rorholm suggested Marx turn to page 18 of 606.

Mr. Marx said if the commission was going to make them go into small 2 acre developments, you're going to make them sign AG…

Mr. Rorholm and Mr. Simpson both said they were 2 acres. Mr. Marx felt he was missing the boat on something.

They got to the page Mr. Rorholm was referring to and Mr. Groves read that minimum lot size for AR was 2 acres.

Mr. Rorholm read:

***AR (Agricultural Residential Zoning District)***

***Purpose and Intent***. *The purpose of the AR, Agricultural Residential Zoning District, is to provide for a controlled expansion of residential uses in a manner that is compatible with adjacent agricultural. It is intended that development of residences in the AR Zoning District would be on platted lots including a waiver of rights to claim an exemption from zoning based upon farming.*

***Allowed Uses.*** *The AR, Agricultural Residential Zoning District, generally allows*

*(a) single-family residential uses,*
*(b) limited agricultural uses, and*
*(c) related public uses, which are described more definitively in the Land Use Summary Table in Section 3.04.04*

*The single family residential uses in the AR Zoning District may have limited agricultural uses, including not more than one animal unit per acre, as accessory uses.*

Mr. Rorholm continued, saying the 2 acres was a minimum. With 20 acres or 10 acres or 5 acres, there's nothing that will stop you from (?) those…and that change is the number of animals you can have.

Mr. Marx said we can't control animal use on anything below 500 head.

Mr. Simpson said yes we can.

Mr. Rorholm said once they have waived the exemption, then we can control them. It's a lot of just what you're asking for. Everything fits in here like a glove. You go from agriculture to people who want to use some things for recreational purposes…

Mr. Marx said…you've got one spot and that's AP which is your big farms.

Mr. Rorholm said, yes, but it doesn't have to be a big farm. You could have your 20 acres in AP, or 10, and you could do all those things you want to do.

Mr. Marx said he wanted to divide his ground into 2 acres pieces where people could have their old truck farm and have their horses and not have it…

Mr. Rorholm asked if Marx thought that was the best use of the land.

Mr. Marx said he was thinking of another developer who wants to do horse properties. If you read some of this stuff, maybe you'll see where he is coming from, where his developers who want to have small 2 acre developments for the horses. He commented about the big barn coming in out east of town. There may be some developers who want to develop ground out there.

Mr. Rorholm said AR would be the place for it. From there, Rorholm and Marx continued an illegible conversation with both speaking at the same time.

Rorholm asked everyone to turn to page 17 of the workbook they were working from and read under AP.

Mr. Marx said that was his point. Someone may want 10-12 houses in rural 2acre spots.

Mr. Rorholm said you could probably do that, but then you're turning to 40 acres. Once you go into 40 acres you are committed to a number of splits. 2 or more splits and you're committed to (a subdivision).

Mr. Marx said he wanted to have another section for people who wanted to have those small acreages.

Mr. Rorholm said he thought we had that section in there.

Mr. Marx said they waive their rights and you tell them one horse. That's not in there.

Mr. Groves said if you only have 1 acre it's 1 horse, but if you have 2 acres that's 2.

Mr. Marx said he had 10 horses and he has 2 acres and he can do it because he has a barn and he can feed them. And there is no law in the state of Iowa that says you can tell me I can't unless I'm over 600-500 units. You'll only let me have 2 houses per 40. I want to develop a tract of land and set up for equestrian people. I want an equestrian park.

Mr. Rorholm asked why that couldn't be a conditional use permit.

Mr. Simpson said as long as the horses were in a dry lot and the owners are feeding them hay and grass, it's allowed.

Mr. Marx responded to Rorholm saying he didn't want to have to come to him to buy a permit to have a horse (illegible). You don't like horses. I don't want to have to do that.

Mr. Rorholm said Marx had this vision that this was going to happen in every section of land and he didn't think Marx was right.

Mr. Marx said the people who fought them the most were the people who had those kinds of concerns.

Mr. Rorholm said the people who fought it the most had the 2 or 3 acre plots and they had horses. But that's not stopping it.

Mr. Marx said if he wanted to develop a place for those people…

Mr. Rorholm said it was there in the AR. You could have 5 acre lots, 10 acre lots…

Mr. Marx objected because they would have to sign the waiver of AG exempt. According to Rorholm, you could have only 1 horse per acre.

Mr. Rorholm didn't know if the animal use was right but admitted that was right about signing the waiver.

Mr. Marx said that's his farm. He didn't want to waive them because he wants to have 20 developments on his 40 acres.

Mr. Rorholm said Marx could have two 20 acre lots and that would be one split.

Mr. Marx said no, he wanted 20 developments on his 40 acres.

Mr. Simpson translated that Marx wanted to have the AR type of development…

Mr. Marx explained the way he was thinking was if they built a four million dollar center they will be attracting those kinds of people. We are an agricultural town. Let's make a provision for them, and make a provision for the other people who don't want the animals.

Mr. Simpson asked Marx why he would assume there is going to be a market for 20 of these lots on a 40 acre tract with all the people of the same mind that they want to have 10 horses on their 2 acres.

Mr. Marx said what if he wanted to develop his farm into an equestrian park. I don't want to get your permission to do it. I want to take the right as a farm and do it.

Mr. Simpson said he thought he had the answer. You want to develop your farm with an equestrian park. Define what that is.

Marx said I have 40 acres available…

Simpson said Marx was basically talking about a subdivision that has all horse people who want to have a barn, a dry lot, and all the horses they can stand right there by their house. And they want to be by their neighbor's horses, too.

Mr. Marx said that was correct.

Mr. Simpson chuckled and said he couldn't imagine wanting to live there, but that's okay. He could imagine having the barn there for Marx's horses for his own enjoyment, but he couldn't imagine living next to all the other people.

They discussed kids participating in rodeos living in town and out on large farms.

Mr. Simpson claimed the answer for Marx was either Planned Development or, as Mr. Rorholm said, conditional use permit. Mr. Rorholm commented Mr. Marx would still have to come to Planning and Zoning no matter what to create the subdivision, and basically the Planned Development could be handled at the same time he is setting up the subdivision.

Mr. Rorholm said he thought it was do-able, but he was just arguing against it because it's not the way he has it in his head.

Mr. Marx did not think it was legal to do it that way. He didn't think you can force somebody to take…

Mr. Rorholm said it doesn't have to be AR. It can be a Planned Development under Ag Preservation.

Mr. Marx said according to (Simpson's material) he could only have 2 houses per 40. That was his point.

Mr. Rorholm said that was a subdivision split.

Mr. Simpson said with Planned Development you could do what you wanted to do.

Mr. Rorholm continued saying actually, you could have your houses on probably 15,000 split lots, and you could have a common barn where you could keep everyone's horses.

Mr. Nelson said Mr. Marx was trying to find out what he could do without adding subdivisions. You can have more than that if you want to, but you have to come in here and apply for a subdivision

Mr. Marx said that was correct, and at that time you have to waive your rights for AG, and that's saying we can't have our horses.

Mr. Rorholm said but he could do it in AP under Planned Development, you could your own horse and your own property. You could have a communal type thing. Have a run or maybe you could have a barn replacement and have I don't know how many acres where they can run and pasture.

Mr. Marx said it didn't work that way. It's like going to your garage to fix my car. We need to program provisions for rural traffic zones.

Mr. Simpson said he could understand that. People have a large investment in horses that they've either bred themselves or they've gone to great trouble to acquire. You want to have them close to you. Probably you're going to want to have an exercise ring for them.

Mr. Marx agreed saying they need a place in the commune. He didn't know if he would need an exercise ring because some people don't want their neighbor's horse with their horse. There are other ways to deal with that situation.

Mr. Simpson asked if it would help if they came up with a different definition of how many horses you could have in an AR zone.

Mr. Marx said he really didn't know if they were legal going down that road. I want to buy my ground and I do not want to waive my agriculture rights.

Mr. Simpson said, to clarify, what he was really asking for is for the AP zone to allow smaller lots.

Mr. Marx added to make a zone in between the AR and the AP zone to accommodate that.

Mr. Groves said if he can get that for his horses, he wanted it for his strawberry patch.

Mr. Rorholm asked the commission to turn to page 26. He read from ***Planned Development: Purpose and Intent:*** *Planned Development Zone is to allow greater flexibility and encourage more creative, innovative development with specific design features not otherwise required or allowed by*

*the provisions of other zoning district regulations. Planned Development is designed to provide a mechanism for review and approval of development that performs high standards with maximum flexibility for innovation.*

Mr. Simpson said virtually anything that is not prohibited is potentially exempt.

Mr. Groves said he knew what (Mr. Marx) was saying, but he thought the commission was getting too specialized. Everyone was going to want a section. He said he knew Mr. Marx didn't want to come (to the zoning commission), but he didn't know how many people before have come to the commission with a situation, and the zoning commission decided that wasn't the direction they intended to go, what about putting it into Planned Development. This allows you to do this and do that, and the people accept it.

Mr. Rorholm told Mr. Marx if he did this, he could write all the covenants he wanted. It would be in AP and whoever buys it has to live with it.

Mr. Marx commented he liked the covenant idea.

Mr. Rorholm said that covenants were fine, but if they were going to have any control over the zoning district, two things the commission is asking for are:

- Get rid of the farm exempt
- The paving agreement

That helps keep people from running amuck making these 2 acre subdivisions like we have going out in the county now, and it provides some good management control and maybe some managed development throughout the county.

Mr. Marx asked if they waived rights on Planned Development. Mr. Rorholm said no.

Mr. Groves said he wasn't sure if it had changed, but that was all the Planned Development was good for was for that specified use. If it was sold and the new party wanted to change it to something else and not use it for horses, that is the (illegible).

Mr. Rorholm said if there were covenants, this was the way all these lots would go because you bought 40 acres like this, but then unless they buy everything, the covenants stay that way.

Mr. Marx said Planned Development could cover the "Todd Sacs" of the world, and whoever the equestrian people are. We wouldn't even need AR. It could all be Planned Development. Maybe that way we could go from AP to AR to PD. He said the answer was to put the PD on the row of zoning districts.

Mr. Groves said Planned Development could be used with any one of the current zoning districts.

Mr. Rorholm said one of the reasons they wanted to use PD was to stop people from carving up the Loess Hills. If somebody wanted to develop it, rather than move the hills/cut the hills and make 2 acre lots out of them, you could develop a community that has could be 20-30

acres. You might have 15,000 sf lots where you may have condos, you may have a package sewer treatment plant, or you may have a community well. Maybe you have 3 acres of development and you leave the rest of it natural. It would probably be in Suburban Residential. Or you could have something like that in the Loess Hills area so you don't go in there and destroy the hills. It allows for flexibility.

Mr. Marx asked about the PD, even though it is its own district, could he do Planned Development on Ag Preservation ground?

Mr. Simpson explained the zoning district had been changed from AP to PD. For that tract of land you have a site plan and a list of uses. All the controls are written specifically for that.

Mr. Marx said on the PD if he wanted to have a bunch of 40 acre organic farms. He said that might be our answer. Let's get it up a little higher on the food chain instead of on the bottom.

Mr. Rorholm said the only thing was you wouldn't just have a Planned Development zone. You wouldn't just say "Planned Development."

Mr. Simpson said yes, you would.

Mr. Rorholm asked why.

Mr. Simpson said it has its own unique regulation.

Mr. Rorholm said he knew that it would be for only one purpose.

Mr. Simpson said the best thing to do with it was to simply call it a PD Zone.

Mr. Groves asked what happened if someone wanted to change the structure of that PD.

Mr. Rorholm said if someone comes along and buys out the property, they can change it.

Mr. Marx added they could rezone it then.

Mr. Groves said before PD had always been tied to a zone. It was a special planned development that you had for that (zone). That's what it stayed as. If someone else didn't want it anymore, it would revert back to what it was originally sold for – AG.

Mr. Rorholm said if that happened within a two mile radius of Moville, the city could veto it and you're done.

Mr. Groves stated he didn't think a city could interfere with land use.

Mr. Nelson said when you say "land use," and you are next to the city and you are in the county so we (illegible). So you go out there and say I'm going to develop this piece of property into 2 acre lots. Right next to the city where there is a water treatment plant, the city could say, no, you can't do it on that land. You're within our range, so you can't

develop that into 2 acre lots. You're changing your land to what you thought you were going to do, but they can say you can't have 2 acre lots because our plan is for a more dense development. It's also true they could approve it. Anytime you are within 2 miles of an incorporated area, they have a right to tell you if they need that area to expand.

Mr. Marx wanted to say he would like to promote the fact that (the commission) did something for the horse people by this plan. Watch. They know that.

Mr. Simpson said he still had a question. Mr. Groves had made him aware in previous ordinances the commission always had its Planned Development as kind of an overlay on other zoning district. Is that the way the commission wanted to proceed with it? Simpson was aiming at a free-standing Planned Development that had no preconception of what was there. He asked if there were any Planned Developments out there at the present time.

Mr. Groves said there were some Planned Developments out there and the only thing they can be used for is what is currently designated.

Mr. Simpson said he wanted to know how the commission wanted it now.

Mr. Rorholm said as an overlay or as a free-standing zone.

Mr. Groves said if it was free-standing you have to create what it is to be used for, create lot sizes and everything else.

Mr. Simpson said they have to give the commission a site plan for their tract of land and say this is how we are going to develop it.

Mr. Groves offered an example of someone coming in and they present a Planned Development. It's all authorized under the district they were in to put a service station in. It passed as a "Planned Development." All that could be used for was a gas station. Somebody else comes in, buys it, but doesn't want to have a gas station. He wants a body shop in there. The only way he could do that is if he tried to re-zone it. That's one of the reason it's protected under Planned Development. That's the only thing it can be used for.

Mr. Simpson stated two good reasons for doing Planned Development;

- Because you want some flexibility that the ordinances don't necessarily provide you
- Because you want to do something that is specified. You're saying I want to assure the people around me that this is what I am doing. It can change only by going through the process again to get it changed.

Simpson asked if there was a consensus that PD was going to be an overlay so it goes with all the other zoning. The commission agreed it was.

Mr. Marx confirmed he would be able to do 2 acre divisions without the waived rights, and it's a Planned Development for a particular use.

Mr. Simpson said regardless of what zoning district you are talking about, the paragraph on page 18 is saying it's expressly understood that an owner of a property has the right to waive

his farm exemption. They have a right to waive it if they decide to. If they don't want to they don't have to do it and they don't have to develop in the AR zone or the SR or the NR.

Mr. Marx wanted to make sure he was clear about Planned Development, for instance, under AG. That can be split into 2 acre lots.

Mr. Rorholm said if he just wanted to do a subdivision, what is it – 2 (illegible) widths in a 40 – you're committed to a subdivision.

Mr. Groves added at that point subdivision rules take over.

Mr. Marx said he would have the Planned Development of that subdivision. His Planned Development is to subdivide it and then use it for agricultural purposes.

Mr. Rorholm pointed out Mr. Marx would still have to lay it out with plats, streets, everything. And he would still have to pay for the costs involved in subdividing. Rorholm said he could have horses, he could walk across it from one of his lot lines to the other or anything he wanted.

Mr. Groves suggested they move on to the charts. Rorholm agreed but also stated after they were finished with the charts, he and others still had a lot of questions and wanted to come back to this.

*The security guard came in to see if the commission needed him to stay longer. Mr. Groves asked what the commission thought. Mr. Simpson suggested the record show the following:*

***Let the record show the public can show up until 7:30pm and after that the doors will be closed.***

***Mr. Groves agreed saying if no one is present for public input by 7:30pm after the doors have been open since 6pm, they are welcome to come to the next meeting.***

Mr. Marx announced he was on page 7, item E.

Mr. Groves said he thought the commission was moving ahead to working on the charts.

Mr. Marx explained this was in the best interest of the commission. He referred to the section under **Administrative Procedures – General Requirements – Public Notification:** Mr. Marx suggested the commission did not want to go down the same road regarding public notification as they had done before. (Marx was referring to the technicality that caused the abolishment of the 2003 Development Plan in February of 2004).

Mr. Rorholm stated it would have to be whatever is legal.

Mr. Groves read from the text:

*It is the intent of the county to provide as much notice of public hearings as is practical to interested parties and the general public; however, an unintentional failure to provide notice as described herein shall not be grounds for upsetting any action taken.*

Mr. Marx asked if he could point out the particular part he felt the commission should pay attention to in order to avoid violating state law.

*…an unintentional failure to provide notice as described herein shall not be grounds for upsetting any action taken.*

His question was who is determining if it's unintentional or not?

Mr. Simpson answered that it was probably a judge.

Mr. Marx asked if the commission thought part of the text should include who makes the determination.

Mr. Rorholm asked Mr. Marx which meetings he might be referring to; the regular Zoning Commission meetings or only the work session for the Development Plan.

Mr. Marx asked if the commission had an obligation to put up notices about the work sessions. If they didn't, would they get in trouble.

Ms. Napier called their attention to the notice that was now in the glass case on the way into the building and said there was one in the case for each meeting.

Mr. Marx said his bottom line was; is the commission meeting the requirements for notification on what they were doing in the board room.

Mr. Simpson said the work session meetings were public meetings. The notice is posted as any other public meeting would be posted.

Mr. Marx said he just wanted to make sure they were doing it right – make sure they were covering their bases.

Mr. Simpson read part of the public notification procedure that pertained to exactly who might be notified and ended by saying if you miss one person, the chances are that was unintentional.

Ms. Napier explained the primary place the notification lists came from were the abstractor's office. She further explained it was hers and John's responsibility to type the letter and get them mailed.

The commission discussed what was neglected that caused the rescinding of the previous plan.

Mr. Groves explained there were notices mailed and posted in the proper places, but the boundaries and the zoning information were not put in the paper correctly.

Mr. Marx asked if that was unintentional.

Mr. Groves said he wasn't saying whether it was unintentional or not at that time. She wasn't present to defend herself at this time.

Mr. Rorholm said he thought it had to do with the County Attorney.

Mr. Groves agreed with him and named another person who quoted the law to the County Attorney and pointed out that the commission had not properly put that in the paper because it didn't give the boundaries. At that point, Mr. Groves said if that was the case, they needed to get an opinion from an attorney, and if that was the case, the entire deal was void.

Mr. Simpson said in order to clarify it the Board passed an ordinance rescinding the whole thing just to remove the argument.

Mr. Groves suggested returning to the chart.

Mr. Marx said when the commission convened the following week, he had questions on…

Mr. Rorholm said the commission was going to go through the whole thing from the beginning to the end. They had to go through the text word by word.

**Moving on to Charts:**

The commission looked through the tables trying to decide where they wanted to start. Mr. Rorholm said he had notes regarding needing numbers.

Ms. Napier said Mr. Pylelo had said he would look up some information and he had, but he was absent.

Mr. Groves acknowledged they all had questions about some of them, but they weren't getting into that now.

There was a question about raising fur-bearing animals. Mr. Simpson determined it belonged in AP. Their discussion led them to realize fur-bearing animals could mean mink and other such animals. Simpson said if they say they are involved in fur-bearing animals they are involved in agriculture and the zoning commission can't regulate them anyway. "The next thing is the dog kennels and Mr. Marx is saying "that's different," but I don't see how it's different" said Simpson. He said Mr. Pylelo had said dog breeding was a problem throughout the Midwest.

Mr. Rorholm said that was where you wanted dog breeding – out in the wide open Midwest.

Ms. Napier said she thought they were conditional use because of requirements for buffer zones and so on.

Mr. Simpson asked to leave the dog kennels as conditional use. He didn't think the Farm Bureau had spoken up for the dog kennels yet.

Mr. Rorholm asked if nurseries were "ok."

Ms. Napier said that was included under horticulture. Nurseries alone could be crossed out.

Mr. Simpson said the definition of farming that we are using there, although it wasn't really in definition form here, is it is one of the criteria that would make you exempt if you chose to seek the exemption.

*If any significant that is non-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 utilities shall be interpreted to be a farm.*

Mr. Simpson located where everyone should be at in the tables as "*horticulture production including nurseries and greenhouses."*

Mr. Marx asked Simpson if horse stables were "ok" under AP. Marx asked if that was also under AR. Simpson said in the AR there is a limit on how many horses you can have. Rorholm added it was provisional use. Simpson asked if Marx remembered what they had talked about; if they wanted to have unlimited horses on a 2 acre lot, he had to do a Planned Development.

Mr. Marx asked the commission to go on to the Planned Development. All of the things that were "ok", did that mean they were all "ok" as overlays. Everything that was in the AG was "ok" as well?

Mr. Simpson acknowledged they were all okay unless it was part of their Planned Development, they would specifically say we're not doing this, this, or this.

Mr. Groves called the commission's attention to **Residential Uses: Dwellings, Single Family Dwellings**

Mr. Marx asked why in single family dwellings there was "restricted use" in AG.

Mr. Simpson explained it meant you could only have two (2) non-farmhouse residences in a 40 acre tract.

Mr. Rorholm added that was why it was provisional. And everything else is "ok" because that is what it was intended for.

Mr. Marx asked what he had to do to develop his farm, just build it?

Mr. Simpson said "Yes." He would have to get a building permit but…

Mr. Marx said, "You do?"

Ms. Napier said he would not have to pay for it.

Mr. Groves said he would still have to file his site plan for his setbacks and/or show where he is going to build it.

Ms. Napier said he would have to show how he planned to place his structures even though he could put them anywhere.

Mr. Marx asked where the commission went on the "grandpa house" theory. He explained it as a house for a hired hand or a family member on the property with the farm house.

Mr. Simpson said they were a conditional use in the AP zone.

Mr. Marx asked if it was correct he could have a house and another house with your kid or somebody living in it. You wouldn't have to subdivide and you could have a second house. He said "that's the way we're doing it now. Is that correct?"

Mr. Simpson said, "Now wait a minute. His kids wanting to have a house isn't the grandpa house."

Marx continued that hypothetically he built himself a new farm house on his farm, and he left the old house there for a hired hand or kids or somebody to live in. Is that still correct? He wouldn't have had to split it. He could have 2 houses on that same tract.

Mr. Simpson said he guessed he could build as many farm houses as he wanted to on one tract.

There was quiet discussion among several members.

Mr. Rorholm asked Mr. Marx if there were separate plats of land that go with the 2 houses.

Mr. Marx said "No. It's just another house on that existing farm ground"

Mr. Groves asked if another reason for the restriction was because it was the same thing within a 2 mile limit.

Mr. Rorholm thought it had more to do with the 2 splits in the 40 acres.

Ms. Napier stated according to the regulations the only way that was allowed was if it was for a member of the family who helped run the farm or a hired hand. Parents have also been allowed if the kids in the main house are running the farm. It still has to do with the land being farmed. However, if they were going to have someone else come in there and rent it from the people who are living in the farm house, that is not allowed.

Mr. Simpson reiterated everyone involved needs to be a part of that farm operation in order to build another house on the farm.

Ms. Napier said that was correct.

Mr. Marx interpreted that to mean if they were doing chores they could live in the other house.

Mr. Simpson said at some point in time they will want to have that house separated off from the main house anyway. Maybe right now they have use for it in their family operation, but someday, somebody is going to want to split it off.

Mr. Rorholm asked if Simpson would call that a residence. He was looking at the language on page 17.

Mr. Groves commented they were jumping back again and he was ready to go on with the charts.

Mr. Rorholm continued reading from the text where it said allowed uses in an AP

> *(b) limited single-family residential uses, which are described more definitively in the Land Use Summary Table in Section 3.04.04. Not more than two residences…*

Mr. Rorholm called to their attention when they were discussing definitions, and commented on the fact they didn't have them. He asked if a "residence" meant a house that has a parcel associated with it. He mentioned they had discussed that ex-farmhouses would be a problem, but if you have a residence, would there be a parcel associated with it. There has to be some kind of a definition to you can control the split, so you don't have somebody building houses for 150 relatives 40' apart and call it a "farm house."

Mr. Marx said, "If they all milk one cow, I guess you could."

Mr. Simpson said it would be "dumb" to do that because at some point in time you're going to want to get rid of those houses.

Mr. Marx said hadn't the commission decided at that time when you split them off then that has to meet requirements for subdivision, so if it doesn't meet those you can't put them up for sale; you have to tear them down. "I think that's how we ended up. If the grandpa house has to get sold, then it has to meet subdivision criteria at that time."

Mr. Groves called their attention to the **Charts** and said they were down to single family dwellings and everything looked okay there.

Two Family Dwellings = provisional in the Suburban zone; conditional use for three and four and for the multiple in Suburban Residential.

Family Homes = okay all the way across.

Group Quarters = Assisted living. Conditional Use permit, but we had dashes under AP. Nursing homes facilities and something else were all combined under Assisted Living. This would be allowed under AR through GC by Conditional Use.

There was a discussion about whether Assisted Living should/could go on AP ground. The conclusion was that if it somehow was placed on AP ground, it would be by Conditional Use and be rezoned to something other than AP anyway.

Mr. Rorholm suggested it be left out of the picture for now and reconsider it if the possibility of it happening comes up in the future. For now the commission will be doing everything they can to preserve agriculture.

Mr. Gard commented from the audience they (the Board of Adjustment) got an application for an Assisted Living Center outside of Anthon and they turned it down.

*First chart page finished.*

Detention Center = Conditional Use under AP

Dormitories & Other Group Quarters = Mr. Simpson said Conditional Use under SR.

Frat.s and Sororities = (gone)

Homeless Shelters = (gone)

Nursing Care = (gone)

Planned Development Column = (gone)

GUESTS & HOUSE WORKERS: Conditional Use under AP Mr. Simpson said it doesn't seem logical but somehow they came to the conclusion they could have a whole row of houses and as long as they were working on the farm only as a conditional use.

Mr. Rorholm said we argued for conditional use permit because if they were going to build it, it had to be declared workers quarters or something like that.

Mr. Groves called everyone's attention and said they had made a decision to change to make it conditional use, so they should think it over and finalize it and go from there.

Home Occupations = Accessory use in everything from AP to SR.

Manufactured Housing Parks (planned devel.) = Mr. Simpson said when he was assuming that Planned Development was going to be a free standing zone there was just going to be a free standing zone for a Manufactured Housing Park, but now we have to have it be Conditional Use in some zone or set it up as its own zoning district but also as Planned Development. So we need "MH" zone for Manufactured Housing.

They discussed the exact definition of Manufactured Houses. The homes being built in Sloan (factory built modular homes) are not the same thing according to Mr. Simpson. While they can be placed anywhere you can build a home, you can place manufactured homes there as well, except, if you want to have them in a community in a park, then you have to have some standards for how you're designing that. In a manufactured housing park, they would not have to be double wides. Usually double wide comes because you say there's a minimum width that you're going to allow for a resident on a lot.

Mr. Groves said he didn't think they even refer to mobile homes anymore; it's manufactured homes. A regular trailer house is a manufactured home now.

Mr. Simpson said the difference is HUD came up with standards for construction back in the '70s and if they're built to meet those standards, you have to let them be anywhere that you…

Mr. Rorholm asked what was meant by "Mobile Home" on the next line below. Mr. Groves agreed that was his question as well.

Mr. Simpson said that means it is a single one. Rorholm said did it still have a tongue on it. Mr. Simpson said basically, "yes." The difference is a manufactured housing park which is like a community, it's a Planned Development and it all works because there's some kind of a water system, a sewage system, maybe a management system that keeps them all together. A mobile home, what that's there for is to allow for as a conditional use a farmer to have a worker's house. That mobile home may be a different kind of structure as a manufactured house. It may, in fact, be one of the old ones you don't have to let into town anymore. It would be a conditional use as an accessory structure to the farmer.

Mr. Groves said, if we're going to have an "okay" over there, if we're going to put the PD over there, we're going to have to come up with a different classification – Mr. Simpson suggested an MH zone. He said it will have to be done as a Planned Development, but here are the standards that have to be followed.

<u>(illegible)</u> = (it had been scratched)

<u>Residential Mixed Uses</u> = (scratched) Mr. Marx asked what Residential Mixed Uses was again. Mr. Simpson said the idea was that you might have a store with a house attached to it.

Mr. Marx asked where it was that foreign exchange students or boarders fit it. The commission said he was living with you and was part of your house. Then he asked if you had a college student who might be renting space from you in the basement. If he had access to your living room and kitchen, he was living in his household. Simpson also said it used to be zoning ordinances tried to say what a family was so you could say you can't have 3 unrelated people living in a single house. That is no longer true.

<u>Offices Uses</u> = Mr. Simpson noted that it was twenty minutes after eight and they were already where they ended the last time.

They all laughed when Mr. Groves said they would've been farther if Mr. Marx hadn't brought up a few things. The commission agreed, laughing, that it was all his fault.

Mr. Groves and Mr. Simpson wondered if <u>Finance, insurance, and real estate</u> should be allowed under Highway Commercial (HC) as well as GC. There was a question about whether, if they were strung together along the highway, a frontage road shouldn't be required. Mr. Rorholm said if you wanted to control your entrances, you introduce an access control policy. Simpson said maybe it should be zoned GC instead of HC because the HC is supposed to be for the truck stops and the motel. These offices don't exactly "serve the needs of the highway.

<u>Government Offices</u> = Mr. Marx says they're going to put them where they want. The DOT decides they're going to build a government office on the highway, they're not going to ask anybody. They're just going to do it.

<u>Medical & Dental Clinics, (etc.)</u> = GC

Professional Offices (etc.) = GC

Other, General Office uses = GC

Mr. Simpson suggested they make an assumption on all these consumer and business services that are listed here, that they are all okay in the GC and then we will talk about the exceptions. The commission agreed.

Discussion of where sheep shearing should be. Animal grooming was accepted.

Boarding Kennels = conditional use in the AP

Veterinarian Offices = conditional use in the AP and GC

ENTERTAINMENT, HOSPITALITY, RECREATION SERVICES
Adult Entertainment = conditional use in GI (gen. indust.), incl. sales of books, tapes, etc.

Banquet & Reception Halls = conditional use in GC and HC

Bars, Cocktail Lounges, and Taverns = conditional use in GC and HC

Exhibition and Meeting Areas = conditional use in GC and HC

INDOOR RECREATION ENTERPRISES
Amusement Arcade = okay under GC

Archery Range = okay under GC

Billiards, pool and darts = okay under GC

Bowling Alley = okay under GC

Firing Range = okay under GC

Skating Rink (ice or skates) = okay under GC

Lodges & Social Clubs = okay under GC

Discussion regarding the meaning of Highway Commercial (HC). Mr. Simpson explained the idea to start with has gotten "lost in the shuffle," but it was originally for highway truckstops, motels, convenience stores which are there to serve the traveler. They have a reason for being there along the highway. The idea originally was the general commercial (GC) list was going to be pretty restrictive, or at least the application of it was going to be restrictive in order to encourage those non-highway oriented commercial things to locate inside of towns rather than outside of towns. But according to discussion it's become clear that Woodbury County ought to have highways lined with commercial opportunity (tongue in cheek).

Mr. Groves thought they should leave it all GC and go from there.

OUTDOOR RECREATION ENTERPRISES
Archery Range = conditional use under AP

Firing Range = conditional use under AP

Golf Courses = conditional use under AP through GC

Golf Driving Range = conditional use under AP & AR – A under NR & SR

Miniature Golf = conditional use under AP, AR & GC

Paintball Range = conditional use under AP

Tennis Courts = conditional use under NR, SR & GC

Trap & Skeet Shooting = conditional use under AP

Pools & Water Recreation = conditional from AP through GC

Racetracks = conditional use under AP

Restaurants = okay under GC and HC

Restaurants, Drive-through, Pickup/Delivery = okay under GC and HC

Restaurants w/ Alcohol = conditional use under GC and HC

Theaters, Live or Motion Picture = okay under GC

The commission decided to finish going through them and then go through all of them again at the next work session.

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

Meeting adjourned 9:10 PM