

Minutes – Special Meeting of Woodbury County Zoning Commission April 24, 2006

The meeting convened on April 24, 2006 at 6:07 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: Mr. Pylelo and Peggy Napier. From the public Riley Simpson, consultant for Flat Earth Planning, Don Klingensmith, Gene and Linda Kollbaum were present.

The first agenda item was approval of the minutes from January 23, 2006.

Mr. Dwight Rorholm made a motion the minutes be approved as read; Mr. Arvin Nelson seconded the motion; motion carried.

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

Mr. Groves asked the commission if anyone had questions regarding the last meeting. He announced there would be a break at 7 pm for consideration of preliminary plats for Kollboun's resubdivision. He turned the meeting over to Mr. Simpson.

Mr. Simpson went over changes that he had made since the last meeting and he distributed fresh copies to the commission.

- On the first page there was a clarification that the Woodbury County zoning only applies to the unincorporated areas.
- There were a couple of notes from a previous document with the City Council that got changed with the Board of Supervisors.
- Simpson said he wasn't sure what zoning's notification distance was. Mr. Pylelo said it depended on the issue.
 - For map amendments for rezoning the distance is 1000 ft.
 - BA hearing on a variance involves only abutting or adjacent property owners
 - Subdivision notifications are 500 ft.
 - Conditional Use is 500 ft.
 - Telecommunications is a mile

Everything other than variance notifications requires an abstractor's certificate. Mr. Pylelo wanted it certified that the office had notified the right people.

Mr. Rorholm wondered if 1000 ft. (1/5 of a mile) for an amendment was a reasonable span of influence.

Mr. Pylelo explained this was an amendment to the zoning map and there hadn't been one during the time he has acted as administrator for the Planning and Zoning Office. The zoning commission had gotten away from spot rezoning before he came to this office.

Mr. Rorholm still asked if, in an agricultural area, the zoning office was looking in a far enough radius to see what the people think about a rezoning. Even if the 1000 ft. don't reach beyond a particular farmer's land, a rezoning could make a significant change to his operations. Rorholm wondered if a mile radius would be more realistic.

Mr. Pylelo explained another rule that he was less familiar with for lack of use. He said our rezoning petition process involves getting a favorable possibly 40% of the landmass within a certain distance to agree to sign the petition saying they support the rezone.

A discussion ensued regarding what the appropriate distance would be with Mr. Rorholm maintaining his insistence that 1000 ft. was not adequate.

(10/10/06 – Tower interest by Merville. Notification distance includes the entire town of Merville. Abstractor's list won't be ready until the end of November! I have to enter that entire list into an Excel file, print the same number of copies of the notification and fold them before I can do a mail merge, stuff the envelopes and mail them out. That turns a process that normally takes a day or two into several months – Oct., Nov., and well into Dec.)

Mr. Pylelo said he thought the notification distances may be driven by statute and therefore, he wished to table the issue until he could research the specifics.

Mr. Simpson said he thought if they were driven by statute, they may be establishing a minimum. Pylelo agreed that might be the case, but wanted to research the information.

Mr. Simpson said the public notification is the only thing the state actually requires.

Mr. Rorholm said since they started with the 2005 Development Plan he heard many comments from the rural community saying they did not want to see agriculture change. They don't want rezoning and the changes that could bring because of the impact that could have on their life style. He did not want to make it any easier for something like that to happen, but if it does happen in the area he wanted to know everyone has had their "say so" and is in a reasonable impact area where they have knowledge of it happening.

Mr. Pylelo said if they wanted to increase it, fine, but they should know he assumed that would mean an additional cost to the developer. Our current regulations require a certified abstractor's certificate. The developer goes to the abstractor, orders the certificate, and submits it with his application so we have the list of the people we need to notify.

Mr. Simpson told of how five years ago the city stopped doing the abstractor list because of the expense. Instead, they raised the application fee by \$150 or so and started using the GIS to develop their mail list. Instead of typing the mailing labels off of the abstractor's list they could develop the mailing list right from the GIS. The information is coming from the county's property records.

Mr. Rorholm was willing to table it until a later date.

Mr. Marx presented a letter from the Farm Bureau which he will copy for the other commission members. The Farm Bureau stated in the letter that asking farmers to waive their exempt status when they subdivide their land is against state law.

Mr. Rorholm said maybe that was true and maybe it wasn't. Mr. Pylelo said it was their "*opinion*" that it was against state law. He asked Mr. Marx to give the letter to him and he would give it to a legal hearing on it.

Mr. Marx said the next statement by the Farm Bureau was that if they knowingly put something in the law that violates state code, we're (the commission) are in violation.

Mr. Simpson said he didn't think anybody was intending to "*knowingly violate state law.*"

Mr. Marx said that was why he brought the letter to the table because he wanted the commission to knowingly do things right.

The commission decided to leave things as they were while the letter was taken for a legal opinion. They could change the wording based on the findings.

Mr. Rorholm asked to go back to page 2 to some unresolved issues regarding the affidavit to prove agriculture exemption by filing Schedule F tax form. Mr. Simpson explained the question is if the person operating it files a Schedule F. As long as the operator is doing a Schedule F it is a farm. It really doesn't matter who owns it unless the owner happens to live on the farm. As long as the activity on that land causes somebody to file a Schedule F, it's farming.

Mr. Pylelo said in that case they would both file the Schedule F. It is the use of the ground rather than who filed what.

Mr. Marx read from something he did not identify (for the purpose of these minutes) what agricultural uses should determine farm exemption. "*...we view agriculture as the art or science of cultivating the ground including harvesting the crops and the rearing and managing of livestock.*" He said this explanation should be the only criteria for determining "*farming*" and what would qualify as "*farm exempt.*"

Mr. Simpson said "*...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.*" He said that covered everything that would be a farm.

Mr. Pylelo asked what started the conversation that prompted the letter from the Farm Bureau.

Mr. Simpson quoted from his copy of the letter, "*Proposal to revoke the agricultural zoning exemption.*" He said that was not what the commission was talking about.

Mr. Rorholm stated that someone thinks the commission is proposing the above. He said incorrect information was being distributed outside of the zoning commission meetings.

Mr. Pylelo asked who Christina Gruehagen was and was she from Des Moines.

Mr. Marx confirmed she was from Des Moines.

Mr. Simpson asked if the commission thought it would be appropriate for him to contact Ms. Gruehagen to give her an opportunity to assess the information she was given with what was actually stated by the Zoning Commission.

Several including Mr. Pylelo suggested they have the attorney for the Board of Supervisor's, Ms. Bobbier Johnson, review a copy of the letter. Pylelo said he would give her a copy.

A rather long, heated discussion ensued regarding what was meant by the commission's "waiver" statement, what information was misquoted and how that happened.

Mr. Pylelo said it appeared to him she was rendering an opinion based on an erroneous set of facts.

Chairman Groves directed the commission to move on to other issues before it was time for the third agenda item. Groves asked about a question that was on page 17. Mr. Simpson said it was basically about changing the title for agriculture zoning from "AG" to "AP" to represent "Agricultural Preservation." After the last line a sentence was added, "On-premise sales of products primarily produced on the farm are permitted," as part of the AP Zone.

Mr. Pylelo said the regulation currently read "...on the parcel" rather than "...on the farm." His question was; can the farm product be taken from a farm in one township to a farm in another township and sell it there. He preferred they had the flexibility. Mr. Pylelo also said his perception was the resale of someone else's farm produce violates the intent of the ordinance.

Mr. Marx said there are many farms that harvest or cut trees on their farms; everything from firewood to hardwood to whatever. We're trying to say they can't do that in the county.

Mr. Pylelo replied we aren't saying they can't do it. We're saying can you set up a roadside stand and sell yours as well as mine and anyone else's as well.

Mr. Marx continued saying there are a lot of farmers in the county who are selling seed corn and other things. He said the commission may call it a business, but it is an agricultural business. Even if it is firewood, it's an agricultural business. He said it's no longer a "home occupation."

Mr. Pylelo asked if he meant it had grown past being a home occupation. For instance, they had employees, etc.

Mr. Marx said it was an agricultural business.

The commission discussed the situation possibilities. Mr. Pylelo suggested making them permitted uses. He asked the commission if they wanted the dealers to come to the commission for permission. He did not think that was what they intended. However, if the situation involved a warehouse full of seed corn, trucks coming and going, several employees...the commission would want to have some power to control or at least approve that.

Chairman Groves suggested there was a difference between someone who has set up a business for this sort of thing and a farmer who is doing this seasonally and it would regularly end at some point. He still did not think it would turn into a problem because it would always be seasonal. Mr. Nelson suggested it was similar to the sweet corn season.

Mr. Marx said the commission did not want to hurt those who do this kind of business because it is their livelihood.

Chairman Groves agreed. He listed several other examples that were more than seasonal business and pointed out the difference between selling seasonal agricultural products.

Mr. Marx said he agreed, but he again introduced the tree harvesting situation.

Mr. Simpson said there was a difference between a tree service that goes around the countryside taking down one tree at a time and actually harvesting a "*heavily wooded areas*" for wood.

Mr. Marx did not want to write the rules to be too restrictive for these situations.

Chairman Groves asked them to move on to page 19 where they would pick up after the commission's regular business.

The third agenda item was consideration of the Preliminary Plats and Recommendation to the Board of Supervisors for Kollbaum's Re-subdivision of part of Lot 4 of Neville's County Estates – GIS 8846 32 300 004

The Woodbury County Office of Planning and Zoning received a Subdivision application from Eugene L. Kollbaum. Mr. Kollbaum intends to re-subdivide a 20 acre portion of Lot 4 of Neville's Country Estates into 2 lots for the purpose of additional residential development.

Lot 4 of Neville's Country Estates was part of a five lot addition subdivided by Mr. George F. Kamm in April 1981. In June of 1981 the current then owner of Lot 4, June Widman, applied for a re-subdivision of Lot 4. Mr. Kollbaum as the current owner now wishes to further re-subdivide Lot 4.

The property is located approximately 1 mile southwest of Bronson in the SW ¼, Section 32, Floyd Township abutting the east side of County Road D-25 (former old state highway 141). The property is zoned AG (Agricultural) and not within any floodplain. The intended use is

permitted within this Zoning District. The weighted average crop suitability rating for the property is 33.0. County Road D-25 is paved thus no paving agreement will be required.

Notification was sent to the 13 property owners within 1000' of the proposed subdivision. To date we've gotten one response received 4/24/06 from Kevin Kay at 1917 Old Hwy 141. I'd like to read a portion of his fax:

Mr. Kollbaum informed me he intends to build a home on the above described property. I have no objection to this. The only concern I would have is that the home and all structures be located as far south on the lot as possible.

*Thank you,
Kevin C. Kay
1917 Old Hwy 141*

We sent notifications to all the necessary agencies including mortgage holders, Federal Savings Bank of Siouxland (nka First Federal Bank), and to Central Bank. We also notified the town of Bronson because this property is within a mile zone of the corporate limits of Bronson.

NRCS: No Response received
County Engineer: No Response received
DNR: No Response received
Western Iowa Telephone: No Response received
Woodbury County REC: No Response received
Siouxland District Health Department: No Response received
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

At their meeting of April 11, 2006 the Board of Supervisors considered the preliminary plats referring the plats to your Commission for public hearing and recommendation.

That was the close of Mr. Pylelo's comments.

Chairman Groves questioned the address of Mr. Kay. After some discussion Mr. Pylelo said to let the record show the address should be 1971; not 1917.

Mr. Kollbaum approached the Commission to talk about what he had discussed with Mr. Roger Milligan from the County Engineer's Office regarding his driveway. He wished for it to curve away from his home and on down toward Old Highway 141 rather than coming straight down from the house to the highway. Mr. Kollbaum also said Mr. Milligan did not see any problem with placement of the driveway for site distances. Milligan recommended installing a culvert which Kollbaum intended to comply with.

Mr. Rorholm made a motion to accept with no changes or conditions; Mr. Marx seconded the motion; motion carried.

Mr. Pylelo told Mr. and Mrs. Kollbaum as soon as his office got the final plats from the surveyor he would be in a position to take the final plats to the Board of Supervisors who will most likely refer the final plats back to this commission for final approval. If the final plats get back to Mr. Pylelo by the first of May it is possible to get it back by the middle of May.

The Fourth Agenda Item was a continuation of the discussion of the Table items.

Chairman Groves asked the commission to go to page 18 and 19.

Mr. Simpson explained some changes he would be making on the table for the zoning districts on pages 18, 19, 20. He added a column for accessory structures. A discussion ensued regarding what the side setback should be for accessory structures. They decided it should be 10’.

The next item was on page 24. Mr. Simpson discussed how the PD (Planned Development) Zone would be a free standing zone. He said the way it is now and the way the commission had decided to keep it was for it to be an overlay zone so the underlying zoning district provisions would carry if you didn’t have an approved plan.

(from the book) “The intent of the Planned Development Overlay Zoning approval process set forth in Chapter (whatever) is to provide a mechanism for review and approval and development proposals that will promote high standards with maximum flexibility for innovation. As the title describes, the PD overlay zone is not intended to be a free-standing zoning district; it is to be applied as an overlay to one of the other zoning districts.

Allowed Uses: The Planned Development Overlay Zoning District is generally intended to allow the range of land uses allowed in the underlying zoning district as a matter of right without regard to approval of a specific plan as provided herein. However, anything that is not prohibited is potentially acceptable as a part of an approved planned development in a PD overlay district including mixed use developments. Likewise, only the uses in an approved PD planned development shall be allowed.”

Mr. Pylelo used a current example of the planned development situation. An AR-PD was approved back in the ‘80s and the only use that structure for was a land management office.

Mr. Simpson said by the Planned Development process, you can add uses to it and you can restrict uses.

Mr. Pylelo said you could pull a permitted use if you feel it’s egregious. He asked if someone came into the office in 2007 and got an AR-PD designation for a specific use, for them to come back in, new owner, 20 years from then, it would take a rezone process to get the PD overlay removed.

Chairman Groves said a new owner could also come in and use the same operation that was there.

Mr. Simpson said if they wanted to change it they could come in and go through the process to remove it or change the zoning to something else.

Mr. Simpson read through Dimensional Standards, Off-street parking and loading, and Landscaping, screening and buffering. *He did not read through Grading, erosion and sedimentation control or Approval Process.

Mr. Marx explained he was bringing up questions for the best interest of the commission. He asked if the news media was notified when the commission met.

Mr. Pylelo said yes; and along with the media, he emailed a woman with the farm bureau before every meeting for their newsletter.

Mr. Marx said a lot of people tell him they don't attend some meetings because they don't see notifications. We didn't want that to come back and bite us. He said as long as we are doing what we are supposed to be doing, that's the important thing.

Mr. Pylelo said he wasn't going out and spending extra money to notify people. He believed we were getting the word out the best we can with emails, the media is notified, mailings go to those necessary, it is posted on the bulletin board downstairs, etc. We are doing all that is required for the meetings. When it comes to the town hall meetings we will blanket with mailings.

A discussion ensued with Mr. Rorholm, Mr. Pylelo and Mr. Nelson commenting on the attendance or lack thereof of the public at the work session meetings, and what that might mean for the town hall meetings.

Mr. Pylelo asked to discuss when the commission actually thought we might begin booking the town hall meetings at Sloan, Correctionville, Merville and Sgt. Bluff. He said he would like to have one in Danville, but they did not seem receptive. Mr. Simpson said he thought we might be able to begin booking the meetings in June, 2007.

Mr. Simpson went through the possible format for the meetings with as little emphasis as possible on the 2003 plan. There were a variety of comments, questions and corrections.

One issue Mr. Pylelo brought up was in coming to a consensus as a commission to keep the non-farmer from abusing the ordinances. A discussion ensued regarding what is and is not a farm.

Chairman Groves explained how out of control an audience can get when something is not clearly stated so it is understood by most the first time through. His point was the commission and Mr. Simpson had to be very clear and very careful about what their intentions were, especially about the "farming" issue, and then very clear with the public when they are presenting it to avoid the meetings turning into screaming matches.

Mr. Rorholm suggested they have someone from the assessor's office at the meetings to explain to the public that when changes are made it will not affect their taxes.

Mr. Pylelo and Mr. Simpson said they would rather not because it would steer the meeting in directions that could last an hour or more and miss the points being presented. Simpson suggested they tell people the Assessor's Office would get back to them.

Mr. Marx was not agreeable to this because he said if someone has a question they will want an answer now.

Mr. Simpson said he could give them the answer but they would not believe him.

Mr. Pylelo said what the concerned public is really saying is they are afraid if the zoning in their area changes, you will let different types of businesses in here and the assessor will see the valuation of my ground as being higher than it is now – and that's a true statement. He thinks they are trying to ask that question but they don't say it right.

Mr. Rorholm suggested someone talk to the County Assessor, describe the scenario and see if there is a statement they could make that would take care of the issue.

The commission decided to think about it for a while.

A fairly intense discussion moved to the question of waiving Ag exemption, what certain subdivisions are rezoned to, and revisiting issues already discussed. Mr. Simpson said he wanted to be at the meeting with Attorney Bobbier Johnson because he saw that possibly the issue was confusing enough he wanted to be sure he had correct information and the waiving process was something that could be done.

Mr. Simpson moved on to *hammer out* the things the Zoning Administrator is responsible for as in the five bulleted areas under Farm Exempt > What the Zoning Administrator is responsible for.

From this Mr. Simpson went over the basics involved in the different zoning districts. No major discussion regarding any of them.

Mr. Marx asked about the Grandpa house. Mr. Pylelo explained there would be a lot of things that would be pulled together in the miscellaneous section and the Grandpa house would be defined in it.

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

Meeting adjourned 9:00 PM

* Did not know if these items were intended to be removed.