

Minutes of Woodbury County Zoning Commission July 23, 2007

The meeting convened on the 23rd of July, 2007 at 6:03 PM in the Board of Supervisor's meeting room on the first floor of the court house, Sioux City, Iowa. Present were the following Commission members – Chairman Grady Marx, David McWilliams, Christine Zellmer Zant, and Dwight Rorholm. Arvin Nelson arrived late; Zoning Staff Present: John Pylelo and Peggy Napier. Riley Simpson, consultant for Flat Earth Planning, Jerry Semple, Robbin Harrison, Melvin Harrison, Bob Wortman, Bob Moritz, Chas A. Johnson, Donna Popp, Dianne Blankenship, Chris Jensen, Douglas Mordhorst, Douglas Buckholdt, and Ken Gard were present from the public.

The first agenda item was approval of the Zoning Commission minutes of June 25, 2007.

Mr. McWilliams made a motion to approve the June 25th, 2007 minutes; Mr. Rorholm seconded. Motion carried.

The second agenda item was the Continuation of Public Hearing and the Review of Preliminary Platting for Harrison Replat of Lot 6 of Harrison's Addition subdivision.

At your June 25th meeting you tabled this matter pending the receipt of a legal opinion from the Woodbury County Attorney. You had asked for the opinion as it relates to avoidance of the subdivision process by the use of lot descriptions other than metes and bounds descriptions. You are referred to Assistant Woodbury County Attorney Loan H. Hensley's July 11, 2007 three page opinion attached, the below comments from your June 25th meeting packets and to your minutes of the June 25th meeting related to this issue.

Mr. Pylelo did not read all of the information related to the Harrison subdivision since it was already part of the record from the previous meeting on June 25th, 2007.

Upon Ms. Zellmer Zant's request and for the sake of the public present, Mr. Pylelo agreed to read into the record the Woodbury County Attorney's opinion from June 11, 2007 requested by the Board of Supervisors on June 25th. (Copy attached)

Mr. Pylelo summed up the ensuing discussion by explaining the Zoning Commission was looking for a way to get the replat process through Planning and Zoning's system. The city was looking for a way not to have to deal with the replat. Unfortunately, sending it through Planning and Zoning's system as the County Attorney recommends and as Planning and Zoning has the authority to do creates a scenario whereby Sioux City would have to run it through their system as well; either that or waive it which Sioux City historically has never

done. Other metes and bounds description was suggested by the City to avoid it going through their system and indirectly avoid Planning and Zoning's also.

Mr. Rorholm asked if it was possible for the County Attorney to speak with the City Attorney and find a way to work this out.

Mr. Pylelo confirmed they had spoken. A statement was made third party to Pylelo the City Attorney expressed to the County Attorney whatever the Zoning Commission decides was fine.

Mr. Nelson expressed a concern if the Zoning Commission "*found a way*" to work out the issue it would set a precedent for other citizens in similar situations.

Mr. Pylelo explained the Office of Planning and Zoning in conjunction with the County Attorney and other professionals as needed, will draft a recommendation to the Board of Supervisors that will include the components of this discussion. This will give the Board of Supervisors something to act on rather than waiting another month. Ms. Semple's points would be included in this recommendation.

Chairman Marx asked to present a motion to the commission he had prepared:

Motion: After consideration of public hearing testimony and consideration of the Associate District Attorney opinion of Loan Hensley, dated July 11, 2007, I would like to make a motion that our Commission recommend Woodbury County Subdivision ordinances as applicable to the split of Lot 7A of Harrison Addition be waived for the following reasons:

- That the current Lot 7A and adjacent lots are currently fully developed and contain one (1) or more single family dwellings and
- that the single family dwellings currently located upon Lot 7A are not within compliance since more than one (1) single family dwelling has been placed on the current lots, and
- that allowing splits will resolve certain Woodbury County ordinance violations and
- that requiring the subdivision process has the potential of creating undo hardship for Lot 7A current owner and potential purchasers of portions of the lot, and
- that the staff of the Sioux City (Zoning ?) has indicated there being the likelihood the subdivision process be initiated under the city's two (2) mile restriction review process,
- that staff recommendation would be not favorable and the City Counsel approval unlikely.

This motion is made with some conditions:

- That no additional single family dwellings may use the existing Buchanan Avenue driveway servicing Lots 6, 7 and 8.
- That all access, egress and utility easements impacting Lot 7A be reviewed by legal counsel and be brought up to date to protect all impacted Harrison Addition lot owners
- Prior to the sale of any portion of Lot 7A the owner shall execute and record an agreement to impose covenant on hard surfacing the current drive within Lot 7A if Buchanan (Avenue) is hard surfaced. Said agreement is to be approved by the County Engineer and shall meet the conditions of the Engineer's recommendation in this matter, and
- This recommendation is based on unique and unusual circumstances associated with Lot 7A of Harrison Addition, and
- This motion, if approved and accepted by the Board of Supervisors, shall not be used as precedent in any future development in Woodbury County.

County Engineer, Dick Storm's, response:

Woodbury County Secondary Roads has reviewed the plat and information submitted in your June 4, 2007 letter. I also understand that you and Roger Milligan have reviewed the site together. This subdivision has a number of issues. I commend your office for attempting to deal with the current situation and correct the problems with respect to entrances because our opinion is that the existing drives serving several residences on Buchanan Avenue has functioned satisfactorily for several years. The hilly terrain limits the number of possible alternatives that could be evaluated. The easements noted for ingress and egress are acceptable to Secondary Roads.

I understand that you have received several comments with respect to requiring the interior roads serving several residences be paved. The current drive has not been approved as a public road. It is our opinion that the road should be engineered with satisfactory right-of-way. We would not insist that the drive be paved at this time; nor would we insist that it be accepted into the Secondary Road System. The Zoning Commission might consider approving this plat on the basis that if Buchanan Avenue is approved and paved in the future, the drive would be approved and paved to the standard acceptable to Woodbury County and the city of Sioux City within a two (2) year period of completion of Buchanan Avenue.

Mr. Pylelo said it isn't certain Harrison's Addition would ever be annexed because the elevation is such that the City of Sioux City has already admitted they would not be able to bring them utilities. Pylelo's comment to the city was if the city wanted the residents of Harrison's Addition to hold to their standards, the city will need to guarantee the residents utilities someday; but the City is not willing to go that far. The commission was looking for a way to put these residents through the planning and zoning system; but because Harrison's

Addition is within a two (2) mile radius of the City, an approval from the City is also required and they have already said that will not happen. When the City turns it down the people are right back where they started.

Mr. Nelson asked what the purpose was for making a motion that makes it possible for the zoning commission to do what they want to do.

Mr. Pyleo explained the motion was drafted to avoid having to send it through the subdivision process, but with certain conditions to protect some of the things you would want to keep from a subdivision process without having to the City of Sioux City's involvement because their standard for legal description is not as stringent as ours. We can look at other metes and bounds; right now they can't.

Ms. Zellmer Zant asked what other things the zoning commission will have to deal with other than Woodbury County setting precedent for creating loopholes.

Mr. Pyleo answered he didn't know how much tighter the motion could be, and it still may not be strong enough. At least the reasons why the motion was made are established for the record.

Mr. Rorholm seconded the motion subject to an amendment reflecting the plat being proposed, and the points raised in the motion be reviewed by the County Engineer and the County Attorney and modify the points that are brought up in that motion to re-craft a motion that will be acceptable to the County Board of Supervisors.

Chairman Marx asked for a 5 minute recess at 7:03 PM. The commission reconvened at 7:11 PM.

The third agenda item was a Work Session Re: Woodbury County Zoning/Subdivision Ordinances and Zoning District Mapping. Review and Discussion of Public Comments Received from 4 Town Hall Meetings.

Mr. Simpson distributed a handout which the commission reviewed listing comments from each of the 4 town hall meetings. The handout in its entirety is attached as "Exhibit A." Some of the comments follow:

- **Correctionville:**
 - *Animal unit restrictions* – unintentionally left in draft – removed now
 - *Non-refundable fees* – refunding may be warranted at times; will revisit

- **Sergeant Bluff:**
 - *Concern about too many animals on a parcel* – only recourse for poor stewards is to file complaint for animal neglect to Mr. Gary Brown at Woodbury County Disaster and Emergency Services or, if you feel there are health concerns, to Mr. Chuck Cipperley at Woodbury County District Health.

- *Home Occupations* – audience members discovered there will be more opportunities for a variety of home occupations.
 - *Term limits and public employees for Planning and Zoning and Board of Adjustment members* – comments would be passed on to the Board of Supervisors
 - **Sloan:**
 - *Need to protect Loess Hills* – Several members of the audience were there to ensure protection of the Loess Hills. When discussing some of the processes by which the land might be protected, Mr. Riley Simpson, Flat Earth Planning consultant, discussed how confusing Planned Development was for landowners. Some people who own land in the Loess Hills and developers feel extra burdens were being imposed on them that were unfair.
 - *Browns Lake area needs larger buffer from industrial zoned area* – Mr. Gary Brown of Woodbury County Disaster and Emergency Services does not want residential dwellings in the buffer area without talking to him first because of chemical hazards prevalent in parts of a more desirable buffer area.
 - *Ken Gard arrived at 8 PM from a Farm Bureau meeting, explained comments made by the Farm Bureau and gave a copy to Mr. Pylelo. (See Exhibit B)*
- Notes:**
- *If nuisance abatement* is being used as enforcement, the county attorney and Farm Bureau attorney should compare wording.
 - *Lobbying and Ex Parte communications* – particularly with BA; speaking with property owners is in violation unless what has been said is read into the record.
 - *Deemed approvals* – sending recommendations to BOS in a timely manner

The fourth agenda item was any citizen wishing to be heard before the Commission:

Diane Blankenship approached the Commission to present her concerns for development in sensitive areas (mostly on the steep faces and eastern areas) of the Loess Hills. Ms. Blankenship owns twenty five (25) acres of the Loess Hill land.

- Handouts were distributed to members of the Commission that demonstrated Loess Hill natural attributes and strengths; beauty, natural formations, natural predators, prairie features, history and many other descriptions. It also called attention to the sensitive, natural tendency toward erosion on Loess land.
- Respectfully asks the Commission to consider ways to address and not ignore the Loess Hills.
- Suggested the county have special landscape designations for these sensitive areas as a way to protect them.
- Blankenship was on City Zoning when they developed the attached resolution (Exhibit C).

Dr. Charles Johnson: member of Loess Hills Alliance and assisted with development of portion of 2003 Comprehensive Plan that related to the Loess Hills.

- Agreed that point system developed by JEO Consulting was too difficult to understand and work with
- Hills aren't designed to be used as agricultural land
- Mining and Barrow pits around Council Bluffs are “*architectural monsters.*”
- Believes Loess Hills landscape development plans need to be brought back into the county plans

Mr. Simpson proposed on page 47 in the 7/23/2007 draft, a Section 5.05 could be added called *Sensitive Land Development* requiring some degree of care requirements for grading plans. In the ensuing discussion it was questioned whether it would always be applied and who would be responsible for monitoring such plans.

Mr. Pylelo said DNR (Department of Natural Resources) gets involved if one (1) acre or more are disturbed.

Others commented a complete definition of where and what is “*sensitive land*” was needed. Erosion control should be a requirement and what issues would initiate these requirements?

Mr. Rorholm and Chairman Marx didn't feel Planning and Zoning should regulate the Loess Hills and maybe the land could be put into some kind of conservatorship.

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

Meeting adjourned 9:15 PM

Next meeting on Tuesday, August 14th at 6 PM.