

Minutes - Woodbury County Zoning Commission Meeting

April 27, 2009

The meeting convened on the 27th of April, 2009 at 6:00 PM in the Board of Supervisor meeting room in the Woodbury County Court House, downtown, Sioux City, Iowa. Present were the following Commission members – Vice-Chairman David McWilliams chaired the meeting; Grady Marx was not in attendance; Arvin Nelson, Christine Zellmer Zant and Michael Knight: Staff members present were Director John Pylelo and Clerk Peggy Napier. Present from the public were Consultant Riley Simpson, Larry and Carol Keilhorn, Clara Hohn, Don Foreman, Curt Hinkel, Willis and Viola Leinart, Rod Earleywine, Ed Avery, and Chuck Cipperley.

The first agenda item was approval of meeting minutes from March 23, 2009.

Commissioner Nelson made the motion to approve the March 23, 2009 minutes; the motion was seconded by Commissioner Knight; motion carried 4-0.

The second agenda item was a public hearing and consideration/recommendation to Supervisors of Re-Zoning Petition for Property Owner – Sergeant Bluff-Luton Community School District; Developer – Curt Hinkel.

The Woodbury County Office of Planning and Zoning has received a petition for re-zoning from the property's owner, Sergeant Bluff-Luton Community School District (SB-L) and Developer, Curt Hinkel. The developer has a purchase offer pending with the property owner conditioned upon re-zoning and subdivision approval.

The applicants request a 19.42 acre parcel to be re-zoned from AP (Agricultural Preservation) to AE (Agricultural Estates). The re-zoning is requested as the AP zoning designation limits to two (2) the number of single family dwellings within a quarter-quarter section (40 acres). Should your Commission's rezoning petition recommendation be favorable the petitioner would request a companion application be considered for the subdivision of the 19.42 acres into four (4) lots. The subdivision issue will be considered as the agenda item after a separate public hearing.

The applicant's parcel is rectangular in shape, abuts the north side of 210th St. a hard surfaced, county maintained roadway approximately 1.25 miles east of Sergeant Bluff. The parcel is addressed 1483 210th St. and assigned GIS parcel #8847 28 400 004.

The parcel is not within a flood hazard area and lies within the Farmer's Drainage District. The site is the former location of the SB-L school district's bus barn. The bus barn and all other structures have been removed from the parcel. Currently salvage and used vehicle tires are located upon the parcel. The Office of Planning and Zoning is coordinating legal removal and disposal under a compliance agreement with the

developer, Mr. Curt Hinkel. The School District has provided authorization for Mr. Hinkel to act in their behalf.

The Assessor's website does not provide a Corn Suitability Rating (CSR) for the parcel. It is presumed the CSR is not available as the property has not been recently used for agricultural production. Adjacent parcels have CSRs ranging from 43 to 50.

The nineteen (19) property owners within 1000' of the proposed subdivision were notified by letter of the public hearing. To date no comments have been received from nearby property owners.

Woodbury County's 2005 Future Land Use Mapping designates the parcel as Rural Residential.

Staff Recommendation for SB-L Re-zoning Application:

The Planning and Zoning office has no objection to the requested re-zoning as it is compatible with the County's 2005 General Development Plan of Rural Residential. The site is in close proximity to the town of Sergeant Bluff and Sioux City and all lots lie adjacent to a hard surfaced roadway. The proposed use of any newly created parcels would only expand to a greater density a currently zoned permitted use.

Should public or agency testimony warrant the Commission may place conditions on any recommendation of subdivision approval. The Planning and Zoning Office continues to study this parcel and will make any testimony it deems prudent dependent upon public and agency testimony. The requested rezoning is compatible with the County's 2005 General Development Plan and the sites future land use mapping designation of Rural Residential.

Discussion:

Mr. Don Foreman who was present for the hearing asked if changes in the zoning would affect his ability to have horses on his property. He also commented Mr. Hinkel was doing a fine job cleaning the debris from the Sergeant Bluff-Luton Community School property.

Mr. Foreman was assured the changes would not affect his horses.

Superintendent Rod Earleywine agreed Mr. Hinkel was making improvements to the property. Earleywine stated the school district supported and approved Mr. Hinkel's plans and said his project would be a "*positive change.*"

Mr. Nelson made a motion to close the public hearing for the SB-L re-zoning. Ms. Zellmer Zant seconded the motion; motion carried 3-0.

Mr. Nelson made a motion to recommend approval of the SB-L re-zoning from AP

(Agricultural Preservation) to AE (Agricultural Estates). Mr. Knight seconded the motion; motion carried 3-0.

The third agenda item was a public hearing and consideration/recommendation to Supervisors re: Hinkel Subdivision First Filing (A Minor Subdivision); Property Owner – Sergeant Bluff-Luton Community School District; Developer – Curt Hinkel.

The Woodbury County Office of Planning and Zoning has received a subdivision application from the property's owner, (SB-L) and Developer, Curt Hinkel. The developer has a purchase offer pending with the property owner conditioned upon re-zoning and subdivision approval. The developer is also a local home builder who intends to custom build or spec build single family dwellings upon each of the 4 proposed lots. Access/egress would be provided from individual drives.

The applicants request a 19.42 acre parcel to be subdivided into 4 lots for single family residential development. Three parcels currently exist within the quarter-quarter section. The applicant's subdivision request would require a favorable re-zoning of the parcel from AP to AE due to the single family density limitation in the AP zoning designation. Should the re-zoning petition previously deliberated in this meeting result in a favorable recommendation the petitioner requests his companion application for a four (4) lot subdivision be considered.

The applicant's parcel is rectangular in shape, abuts the north side of 210th St. a hard surfaces, county maintained roadway approximately 1.25 miles east of Sergeant Bluff. The parcel is addressed 1483 210th St. and assigned GIS parcel #8847 28 400 004.

The parcel is not within a flood hazard area and lies within the Farmer's Drainage District. The site is the former location of the SB-L school district's bus barn. The bus barn and all other structures have been removed from the parcel. Currently salvage and used vehicle tires are located upon the parcel. The Office of Planning and Zoning is coordinating legal removal and disposal under a compliance agreement with the developer, Mr. Curt Hinkel. The School District has provided authorization for Mr. Hinkel to act in their behalf.

The Assessor's website does not provide a Corn Suitability Rating (CSR) for the parcel. It is presumed the CSR is not available as the property has not been recently used for agricultural production. Adjacent parcels have CSRs ranging from 43 to 50.

The nineteen (19) property owners within 1000' of the proposed subdivision were notified by letter of the public hearing. Notices were also sent to each of the following Agencies or Institutions with responses noted.

NRCS: No response received

WCSWC: No response received

County Engineer:

4/27/2009 – e-mail from Woodbury County Engineer, Mark Nahra

John,

I was out of the office all last week, so I am just looking at this today. This preliminary submittal gave us very little to review.

The driveways have been checked and meet requirements for sight distance. No site storm water control plan was offered, although Mr. Virtue has commented extensively on this portion of the consideration of development of this site as it is adjacent to the Farmers Ditch. Some plan for assuring that post-development storm water discharge from the lots would be controlled and not exceed discharges prior to development. We could not review the plat as no legal description was provided. Please let me know if you need any further information.

ADDITIONAL COUNTY ENGINEER COMMENT

5:00 PM 4/27/2009 – Telephone call from WC Engineer, Mark Nahra

1. Closure is within .0091'; Acceptable
2. Any subdivision approval be conditioned upon:
 - a. Submission of data to determine that retention pond will meet Farmer's Drainage District requirement that projected additional runoff rate will not exceed the existing runoff rate.
 - b. The data support the developer representation that projected additional runoff rate will not exceed existing runoff rate.

DNR: No response received

Western Iowa Telephone: No response received

Woodbury County REC: No response received

Longlines: No response received

Siouxland District Health Department:

April 23, 2009 – letter from Dir. of Environmental Services, Chuck Cipperley

Mr. Pylelo,

I have reviewed the documents you sent on the above described address. It is my

opinion that percolation soil tests should be performed on the sites of the drain fields for the sewage systems, if that is the type of systems that are going to be installed.

The previous boring test shows poorly drained soils to a 5-6 foot range. Drain fields are at 3 foot depth, percolation rates would indicate if they would be functional at that depth. If you have any questions please feel free to contact me.

County Assessor: No response received

County Emergency Services: No response received

County Real Estate Department: Subdivision name available as of 04/17/09

Board of Supervisors: No response received

Sergeant Bluff Iowa City Clerk: No response received

Magellan Pipeline Company: No response received

Farmers Drainage District Engineer:

April 16, 2009 – Farmer’s Drainage District, Jack D. Virtue, P.E.

The undersigned, representing the Farmers Drainage District, has reviewed the proposed HInkel Subdivision of GIS Parcel 8847 28 400 004 with Charles Bechtold of Rose Engineering.

Drainage District requirements for Drainage Lateral designation, driveway culvert elevations, and drainage assessment classifications were reviewed and agreed upon.

Although plat was preliminary the drainage pattern indicated all runoff was directed to (existing) detention pond. Only detail unknown, or not shown on preliminary plat was plat design elevation of detention pond overflow discharge.

Farmer’s Drainage District Attorney: No response received

We enclose a copy of a *Subsurface Exploration and Foundation Evaluation* from 1994 prepared by Professional service Industries, Inc. The document, a 24 page report, was ordered by a previous owner of the property, Mr. Donald Foreman. The document provides historical background and data for the parcel in the areas of: surface elevations; soil types, soil conditions, percolation rates and soil analysis; groundwater observations, water table, drainage and grading; berm construction, sewage lagoon permeability and lagoon liner. These topics may wish to be addressed dependent upon public or agency testimony. Mr. Foreman has consented to the applicants’ use of the document in this proceeding.

Woodbury County's 2005 Future Land Use Mapping designates the parcel as Rural Residential.

Staff Recommendation for SB-L Subdivision Application:

The Planning and Zoning Office has no objection to the requested subdivision as it is compatible with the County's 2005 General development Plan of Rural Residential. The site is in close proximity to the town of Sergeant Bluff and Sioux City and all lots lie adjacent to a hard surfaced roadway. The proposed use of newly created parcels would only expand to a greater density a currently zoned permitted use.

Should public or agency testimony warrant the Commission may place conditions on any recommendation of subdivision approval. Staff recommends the following condition be placed upon a recommendation of subdivision approval. No building permit is to be issued for any lot until such time as all existing salvage and used vehicle tire violations have been remedied on the entire existing 19+ acre parcel. This is to include the legal and permitted transportation of the used vehicle tires to a certified disposal site recognized by the Iowa Department of Natural Resources.

Discussion:

Mr. Hinkel stated he finished removing the tires today (April 27). His intentions were to take the approximately 1,500 – 2,000 tires to Sibley, Iowa to be burned.

Hinkel's understanding is the percolation tests done in the past were correct. Chuck Cipperley of Siouxland District Health recommends they be done for each lot. Mr. Nelson agreed.

Ms. Zellmer Zant asked how Hinkel could make the parcel with the retention pond "not dangerous."

Mr. Hinkel stated he wanted to "...do it right," and take whatever precautions were necessary. The front pond is already filled in and he intends to use the back pond.

Mr. Nelson asked for specifics regarding the pond and drainage issue.

Mr. Hinkel explained there would be drainage ditches surrounding the development to accept excessive runoff and trees planted around the pond. Drainage will not flow into neighboring fields. In fact, neighboring fields may have some drainage into the retention pond.

Mr. Pylelo, referring to Chuck Cipperley's letter from Siouxland District Health, said drainage met with SDH's standards. Woodbury County Engineer Nahra had asked for more data.

Commissioner McWilliams inquired about driveway issues.

Mr. Pylelo said there have been no recommendations from the County Engineer

regarding driveways.

Mr. Hinkel said homes would need turn-around driveways.

Mr. Nelson made a motion to recommend approval of the Hinkel Subdivision subject to the following conditions:

- 1. No building permit is to be issued for any lot until such time as all existing salvage and used vehicle tire violations have been remedied on the entire existing 19+ acre parcel. This is to include the legal and permitted transportation of the used vehicle tires to a certified disposal site recognized by the Iowa Department of Natural Resources.**
- 2. Percolation soil tests be performed on the sites of the drain fields for the sewage systems per recommendation of Siouxland District Health.**
- 3. Submission of data to determine that retention pond will meet Farmer's Drainage District requirement that projected additional runoff rate will not exceed the existing runoff rate and the data support the developer representation that projected additional runoff rate will not exceed existing runoff rate.**
- 4. The topography map shows proposed drainage ditches.**

Ms. Zellmer Zant seconded the motion; motion carried 3-0.

The fourth agenda item was a public hearing and consideration/recommendation to Supervisors of Re-Zoning Petition for Property Owner – Larry L. Keilhorn and Carol L. Kielhorn; Developer Jensen Family.

The Woodbury County Office of Planning and Zoning has received a petition for re-zoning from the property's owners Larry L. and Carol L. Kielhorn. The applicants have a purchase offer pending with the Jensen family from Holstein, Iowa conditioned upon re-zoning and subdivision being approved by Woodbury County. The Jensen family operates funeral homes in the area and intend to construct a funeral chapel on the site should re-zoning and a subsequent subdivision of the parcel be obtained.

The applicants request a 2.0 net acre portion in the southwest corner of the 34.8 acre parcel be re-zoned from AP (Agricultural Preservation) to GC (General Commercial). The re-zoning is requested as the AP zoning designation does not allow funeral homes as a permitted use. If approved the applicant would then file an application for subdividing the 34.8 acre parcel into a two (2) lot subdivision. The Kielhorns believe a portion of the remainder of the 34.8 acre parcel has potential for residential development; specifically the western portion of the parcel sharing a co-boundary with the Correctionville Golf

Course. The Kilehorns have not indicated any serious intent to incorporate long term residential development concepts into the upcoming subdivision application.

The existing 34.8 acre parcel is irregular in shape and lies between Hwy 31 to the north and US Hwy 20 to the south. The 2.0 acres proposed for re-zoning would be rectangular in shape and would abut the north side of US Hwy 20, a hard surfaced and state of Iowa maintained roadway. Access/egress would be from the US Hwy 20. The 2.0 acres lies approximately 120 feet northeast of the town of Correctionville. The town of Correctionville has declined to accept an annexation application from the property owner. The parcel is not within a flood hazard area or drainage district.

The Corn Suitability Rating (CSR) for the 34.8 acre parcel is 62.7. Woodbury County's 2005 Future Land Use Mapping designates the parcel as TA (Transitional Agriculture).

Staff Recommendation for Kielhorn Re-zoning Petition:

The Planning and Zoning Office has no objection to the requested re-zoning as it is compatible with the County's 2005 General Development Plan and the sites designation of Transitional Agriculture; The site is in close proximity to the town of Correctionville and lies adjacent to the Hwy 20 corridor. In addition, the proposed use of the parcel provides a necessary commercial service to this area of Woodbury County and its citizens.

The Commission may wish to discuss a PD (Planned Development) designation be placed on any re-zoning consideration should the Commission find certain GC permitted uses are not compatible or should public or agency testimony raise issues. However, the Planning and Zoning Office finds no GC permitted uses incompatible at this location. Staff recommends you consider an approval recommendation with any conditions your Commission deems prudent.

Mr Kielhorn approached the commission to comment on Mr. Jensen's plans for building, parking and signage.

Mr. Pylelo said his understanding was the building would be set back far enough for a frontage road if desirable in the future.

Mr. Nelson made a motion to close the public hearing. Ms. Zellmer Zant seconded the motion; motion carried 3-0.

Discussion:

Mr. Nelson asked for comment on taking the parcel out of agricultural use when it has a considerably high Corn Suitability Rating (CSR).

Mr. Pylelo agreed a resolution passed years earlier seriously took into consideration “not taking ground out of ag production for subdivision purposes that had Corn Suitability Rating of 65 or higher.” This parcel of land would have to fall below that number before being taken out of ag use.

Ms. Zellmer Zant added the prime commercial location, proximity to city activities and potential commercial uses also needed to be taken into consideration with the CSR.

Mr. Kielhorn asked about the possibilities of developing the rest of the parcel.

Mr. Pylelo explained it would be necessary to create approximately sixty (60) lots in order to recoup the cost of the required infrastructure. It did not help Mr. Kielhorn that the city was not interested in annexing.

Mr. Nelson made a motion to recommend approval of re-zoning from AP to GC. Mr. Knight seconded the motion; motion carried 3-0.

The next agenda item was Ordinance Discussion.

At your March 23, 2009 Commission meeting clarification was requested regarding existing ordinances impacting *second accessory dwellings* commonly referred to as *grandpa houses*.

You are referred to the attached April 6, 2009 memo from the Planning and Zoning office. This memo was previously mailed to you but is reproduced here for your reference.

The planning and Zoning office would request discussion ensue toward the outcome of:

1. Clarifying the impact and application of the August 1, 2008 enacted ordinances related to this issue; and
2. Determining if the ordinances enacted reflect the intent of the Commission’s previous recommendation to the Supervisor’s; and
3. Should it be required drafting amendment language to correct the enacted ordinances and direct the Zoning Director to forward a recommendation report to the Supervisors for their consideration to assist you in your discussion we refer you to the attachments within the April 6th memo. Consultant Simpson has been invited to this meeting to participate in your discussions.

Discussion:

Mr. Pylelo opened by stating he expected the ordinances would go through amendments over time. Ordinances would need to be refined and changed as challenges were met. He asked each commissioner offer his/her view since those present were at the April 6 meeting.

Ms. Zellmer Zant stated the present commissioners all voted the same and this reflected the opinion of the commissioners. Zellmer Zant's view was to not make it harder for the clients to accomplish their goals. She also stated "*grandpa houses*" should not be the first option considered in finding a solution. That was not was it was designed for.

Mr. Simpson reviewed four (4) questions that qualify a second accessory dwelling:

1. Is there a clear need to house the relative or employee (reasons need to be considered individually)
2. Will the accessory dwelling count as second dwelling in a $\frac{1}{4}$ $\frac{1}{4}$ section – does it affect the density rule (This may need to be brought before the Board of Supervisors for ruling and possibly amended for clarification)
3. Is the accessory dwelling determined to be a farm house or a tenant/landlord situation
4. Will the accessory dwelling have same owner as primary dwelling

Mr. Simpson also stated subdivision by "metes and bounds" should not even enter into the consideration.

Ms. Zellmer Zant suggested the "right questions" need to be asked of those considering a second accessory dwelling.

Mr. Pylelo said having a second accessory dwelling be CU (Conditional Use) means other considerations are necessary.

Mr. Nelson asked if having the ability to have a second accessory dwelling meant the farmer could have a third accessory dwelling for the next child and a fourth for the next and on and on.

Mr. Knight reminded the commissioners the Days did not want a *grandpa house* and being asked to consider one made the Day family appear uncomfortable and also made the commissioners very uncomfortable. Knight felt pressing the issue, when for multiple reasons it did not appear to be appropriate for the Days, made the commission appear unprofessional. He conceded Mr. Marx may have misunderstood the needs of Mrs. Day and her son.

Mr. Nelson, Ms. Zellmer Zant, Mr. McWilliams and Mr. Pylelo each commented on their dislike and discomfort of the argumentative situation they found themselves in before the Day family and attending public.

Ms. Zellmer Zant said she felt (the commission was) sabotaged.

Mr. Pylelo suggested an appropriate approach would have been for Mr. Marx to call the commissioners and him prior to the meeting and advise them of issues he would be presenting. This would have avoided the entire commission appearing unprepared and unprofessional.

The next agenda item was Any Citizen Wishing to be Heard.

Citizens attending had already been heard.

Comments from the Planning and Zoning Office:

Mr. Pylelo commented on the *Gender Based Legislation* recently passed and how it might affect the Zoning Commission and Board of Adjustment.

Pylelo also commented on upcoming commission meetings.

Commissioner Zellmer Zant made a motion to adjourn; Commissioner Nelson seconded the motion; motion carried 3-0.

Meeting adjourned at 7:40 PM.

Next meeting scheduled for Monday, May 18, 2009