

**GREEN LAKE COUNTY**  
**LAND USE PLANNING AND ZONING COMMITTEE**  
Business Meeting Minutes – January 24, 2007 – 6:00 p.m.

**CALL TO ORDER**

Chairman Orville Biesenthal called the meeting of the Land Use Planning and Zoning Committee to order at 6:00 p.m. in the Green Lake County Courthouse, County Board Room, Green Lake, Wisconsin. The requirements of the open meeting law were certified as being met.

Present: **Orville Biesenthal, Sue McConnell, Gus Mueller, Howard Sell, Wallace Williams**

Absent:

Also Present: **Al Shute**, County Surveyor/Land Development Director  
**Carole DeCramer**, Committee Secretary  
**John Selsing**, Corporation Counsel  
**Orrin Helmer**, County Board Chairman

**APPROVAL OF AGENDA**

**Motion by Mueller/McConnell, unanimously carried, to approve the agenda. Motion carried.**

**APPROVAL OF MINUTES**

**Motion by McConnell/Mueller, unanimously carried, to approve the minutes of December 6, 2006, and January 3, 2007. Motion carried.**

**PUBLIC APPEARANCES**

Gail Zimmerman – My husband and I have lived in the Town of Mackford for 30 years. We had bought what was the Prairie Auto duplex a couple of years ago. Our son was living in it and he helps on our farm. He has four children plus a baby due in two weeks. He had a very bad fire on January 7<sup>th</sup>. It basically destroyed their home. I had looked into rentals which did not go real well and then we were able to obtain a mobile home. Knowing that there are permits required for just about everything in our county, we called the Zoning Department and explained the situation. We want to temporarily hookup a mobile home with two septic systems while we build a new house for them. We were told we couldn't do that. Tom (Zimmerman) had talked to Matt Kirkman and he said he'd even sign a statement saying that as soon as the house was built and our son and his family were in there, we'd get rid of the mobile home. Not getting anywhere, we called Joan Ballweg and asked her what steps we need to take get this emergency situation fixed. This young family needs to be in a home close to where they're raising calves over there. They have their pets and a few possessions they did manage to get out of the fire. They're in storage over there in the auto body shop. We need approval or something so that we can get them in a home. We contacted Kinas about doing demolition on the house and now we need a little help here for this family.

*Lengthy discussion among all present.*

**Motion by Mueller/McConnell, unanimously carried on roll call (5-eyes, 0-nays), that the fire that destroyed the Zimmerman family home has created an emergency situation and that they are allowed to temporarily locate a mobile home on the property while a new**

**home is being constructed without fear of notice of violation and of prosecution, pending the public hearing outcome for the rezone request. Motion carried.**

Zimmerman – What do I need to do next?

Shute – Have whoever is expediting your project come in and get the permits. Two permits are needed; one to locate the mobile home and a permit to connect the septic system. Request an application for a zoning change as well.

Zimmerman – Thank you.

**PUBLIC COMMENT** - None

**CORRESPONDENCE** - None

**PURCHASES** - None

**CLAIMS**

Claims totaling \$1,332.75 were submitted.

**Motion by McConnell/Williams, unanimously carried, to approve the 2006 claims for payment. Motion carried.**

**Motion by Mueller/McConnell, unanimously carried, to approve the 2007 claims for payment. Motion carried.**

**DEPARTMENTAL REPORT**

**On a motion by Mueller/Williams, unanimously carried, to approve the 2006 Annual Report. Motion carried.**

**WISCONSIN REALTY DEVELOPMENT – JOHN DIEDRICH, PRESIDENT - FINAL PLAT FOR SUNNYSIDE ACRES SILVER VIEW**

a. Committee Discussion and Deliberation

Shute – The committee laid over action regarding the final plat to allow the Highway and Parks Committees to review the plat to determine if they wanted any parkland dedication. Their recommendation back to you is that there is no need to try to secure park land. The engineer, Chris Murawski, gave me some road name changes and those were all approved by the Law Enforcement Committee. The last issue was variances/waivers on two items. One of them was with respect to the center line radiuses of the road. That one I took off of the list of conditions because the ordinance says 200 foot minimum or as acceptable by the local road jurisdiction, which is the town. The town accepted those radiuses. I talked to John Selsing about the last issue, the double-fronting lots, and he can explain his position about variance versus waiver.

Selsing – Last night Mr. Biesenthal asked me to attend tonight so Al (Shute) was good enough to get me a whole series of information and I did have an opportunity this afternoon to go through it and what was very helpful was to have the word-by-word summary of the meeting. I got to follow the whole meeting. Attorney Sorenson was trying to explain one thing and I know Al was trying to be a strict reader of the ordinance. First off, double frontage is something that, obviously, carries some potential problems so it starts out by being prohibited, but, the ordinance

goes on to say, “accept.” We’re not talking about a variance, we’re simply talking first is, do we think this double frontage is necessary as a separation of residential development, and is there specific disadvantages of topographic and road orientation? If, in fact, the committee feels that these exceptions within the ordinance apply, you can allow double frontage, but then you go on to the next part where, basically, it says you can then require a ten-foot buffer where they can’t really go through. So that’s option one. If the committee doesn’t think any of these apply, that there is a disadvantage to the topographic or road orientation, or it’s not needed to separate traffic, if you don’t think the exceptions apply, then it’s prohibited. If it’s prohibited, then you would look to a variance as an exception to the rule. The first question lies right here as to whether the committee believes these exceptions apply. You might have two road accesses, but is one of them, basically, unusable or has problems that it’s not really a useful frontage. It would be nice if we cleaned up our definition of what these disadvantages are, but they are what they are. That’s where we stand and I did have a moment to call Attorney Sorenson and I understood the disagreement here and what Attorney Sorenson is saying is correct. You can look right at your own ordinance and determine if the exception applies. If it applies, you don’t have to look any further.

McConnell – In my mind, thinking back to the last time we were here, when we looked at the wording in the ordinance, the exception does apply. If we feel it applies, then it would be appropriate to have a ten-foot buffer area with screening as Al lays out in his letter. That would appropriately prevent any road through there and nobody is going to use it. The screening will grow up. That’s my own opinion. When I read this, it says if we intend to grant the variance, does that mean that they’d have to apply and go through the board of adjustment or do we just grant that variance?

Shute – It’s my understanding that this committee can grant variances and if you do grant variances, the same criteria should apply. I laid this out from a staff perspective that staff did not feel the exceptions allowed for anything but a variance. If you find that those exceptions apply, then these wouldn’t be conditions of the variance, but I assume if they wanted these things to apply, they could be conditions of the plat approval under the findings that they found that those exceptions applied.

Selsing – Right, and require the ten-foot buffer.

Shute – You wouldn’t be granting a variance in that instance.

McConnell – We would require the ten-foot buffer be constructed with plantings and screenings, and that is part of the ordinance.

Shute – The ordinance is vague. It just says a ten-foot planting buffer. You can use your imaginations.

Williams – Where is this road?

Shute displayed the map on the overhead and, using the laser pointed, explained where the double-fronting lots are located.

Helmer – Lot 37 is really a marsh area.

Shute – From what the engineer testified last time, evidently, the cross-hatched area (indicating on the overhead) would extend across this existing platted road and this is wetland area. He seemed to indicate that this road would not be able to cross the wetland so it would stub right there anyway if they did go to improve it. That's outside the plat we're considering.

Attorney Steve Sorenson – Just so there is a complete understanding, and I think I need to go back to this, the road that you're talking about is not part of the plat. We have no control over that road. The only thing we can do as developers is to create an outlot of the parcel otherwise there is nothing we can do to not create a double-fronting lot. Topographically, as Al just pointed out, you're not going to have the ability to exit 37 and 38 because you're going to have to go through a marsh for most of that to get there. The reality of the type of topographical issue in this case is that it's not our road. It's not part of our plat. That's why we offered last time and I'm happy to reiterate, we're more than happy to put the ten-foot buffer because we see that under your ordinance as the only way for us to solve the double-fronting lot issue which we're required to solve under the ordinance and that's why we agreed last time and, again, in my conversations with Al yesterday and with John, I said we don't have any trouble with that. I do need to alert you to the fact that, in reading through the specifics of what Al has on here as far as how high or whatever, we also have to apply the DNR regulations to the wetlands. We can't fill in the wetlands to create berms. On the property where we can do this, we're more than happy to create these berms and plantings. In the area the DNR won't let us touch, which I think is the cross-hatched area, your ten-foot berm is really bigger than ten feet in most cases because it's the wetlands that we can't go through anyway without getting a permit from the DNR to fill in the wetlands and we're not going to apply for that, and we'll put that in writing, too. Just so you understand how this works out. The suggestion that Al has here tonight, that these be on the final plat, we don't have any trouble with that, and I think that's exactly what we talked about last time is creating that ten-foot buffer. Just so long as you have an understanding with the last one that says the landscape and planting plan of the berm and plantings be submitted to the Land Use Planning and Zoning Department for review and approval, we have no problem with that, but you have to understand that there is a part of that they're not going to let us berm. We're not going to be able to berm the wetlands and we're not going to be able to put plantings in the wetlands and they're not going to grow ten feet unless the bulrush grows ten feet. That's the reality. Otherwise, we're comfortable. We don't want to create double-fronted lots. We don't want people building pole buildings on the back side of those lots that have driveways that come in off that other road. That certainly decreases the value of what we're trying to create as a subdivision.

Williams – If that other road isn't fixed up now, we'll never have a problem.

Sorenson – We don't control that other road with this plat. That's already been dedicated to the Town of Brooklyn so they really have more control than we do.

Mueller – Since it's wetland, I say let's put it into pussy willows for ten feet. Have that divide that.

McConnell – Those would grow ten feet tall.

Williams – The Town of Brooklyn could build it in there if they wanted to.

Sorenson – They'd have to get a DNR exemption to fill in a wetland and I doubt if you'll see the Town of Brooklyn petition for that, but they might. It is dedicated already as a town road. Ms.

McConnell is here and can tell you that the town approved this without putting conditions on it and perhaps they recognize that they control building a road or not building a road.

Williams – That little piece of road doesn't look like any reason to build it if it can't go anywhere else.

McConnell – And it's too close to the lake.

Shute – I don't think it's anything you need to stress over. Three entities, at the time of preliminary plat, had a concern about this. Two of the three that have looked at the plat already have not indicated any concern. I don't know what happened along the way, but you've got two of the three and you're the third that had a concern and two of them don't anymore. If you get the buffer in there and you're comfortable with that, I'd say move it along.

McConnell - Does that bring us then to Option 2, if the committee decides to approve, staff recommends the following conditions – storm water management plan, protective covenants, final subdivision plat be updated, the owner/developer obtain all other approvals – don't have to be part of this approval.

Shute – Those are requirements of the final plat, yes.

McConnell – Would we add a fifth, then, to reflect option one.

Shute – John (Selsing) may be able to help you with that, but my recommendation would be that you have an item five indicating that you have findings on the double fronting and the following conditions should be added and then whatever conditions you choose could be added.

Selsing – I think you answered the question. If you're going to approve it, you're going to have a finding that one of the exceptions applies and direct that there be the ten-foot buffer reflected on the final plat drawing.

McConnell – Looking at that, it looks like it would be one, three, four, and five.

Williams – That buffer would be where it's solid enough for them to put it.

Selsing – Right. They may ask Attorney Sorenson's client to talk to the DNR, maybe there's a tree that they'd allow them to plant in there, or something that would even be more physically appealing than a swamp or tall grass. We're not too concerned about them driving through and if it's appearance purposes and preventing kids from driving through, then the DNR may even allow some form of tree to be planted there that does well in that land.

Sorenson – My comment was subject to wetland restrictions, we would put in the plantings that you require in the berm you require, but we have to put the caveat on that it's subject to wetland restrictions because, otherwise, we'll be back here saying that we tried.

Selsing – If the DNR says you can't do anything, you can't do anything. I'm just trying to say that it may be worth looking into what, if anything, would be allowed in there, because it would probably benefit the development. Spruce may look better than marsh grass.

b. Committee Decision

**Motion by McConnell/Sell, unanimously carried on roll call (5-eyes, 0-nays) to approve the final plat for Sunnyside Acres Silver View with the conditions 1-4 as presented in the staff report. Motion carried.**

McConnell – Can we go back? Mr. Selsing, we may have done something else. We need to make sure that these screenings that we talked about are included in the final plat. I assumed we were doing that, but apparently we didn't include that in the motion that was made.

Selsing – First off, you're finding that the exception applies and directing that the final plat reflect the ten-foot buffer?

McConnell – Yes.

Selsing - Then that's the amendment to your motion. If that's agreeable with whomever made the second, I believe that's Mr. Sell, then you can call the roll again and cover the amendment then.

McConnell – I'd like to do that.

Shute – So then we're not going to deal with any of the items at the top of the staff report?

McConnell – One through five?

Selsing – Is that included, or is that mandatory as part of a final plat anyhow?

Shute – This was to clarify that we get an appropriate working buffer.

McConnell – Can we just include item five where it says that a landscape and planting plan of the berm and plantings be submitted to your department?

Shute – However you decide to amend the original motion.

Selsing – We're not doing anything right now that's inconsistent with what was discussed.

McConnell – Attorney Sorenson said that they need to comply with the DNR requirements. That's all I'm saying. We need that ten-foot buffer area with the plantings which is pretty well covered under item five, option one.

Selsing – It requires them to submit a plant, right? The plan will include whether they can or can not. They're going to put in a berm unless they're not allowed to do so. If you simply reference the plan being required, that's fine. Certainly, if the DNR, as part of this plan, won't let you put anything more in there than grass, then that's your ten-foot buffer.

McConnell – Basically, it's item five out of option one is what we want to include.

Selsing – You said items one through four and you're adding item five?

Shute – No, it’s one through four down below plus item five from above.

Selsing – It’s nothing inconsistent with what was discussed when they were here.

**Motion by McConnell/Sell, unanimously carried on roll call (5-ayes, 0-nays), to amend the motion to add a condition #5 to include a ten-foot buffer as follows:**

- 5) That pursuant to Section 315-30.B. the Land Use Planning and Zoning Committee finds that, the proposed lots 37, 38, and 39 meet the exception for double fronting lots and are disadvantaged by topography and orientation. Therefore, these lots shall require a planting screen easement of at least ten feet along and parallel with Hillside road and McDonald Road. The planting screen shall meet the following criteria;**
- a. That a restriction be added to the face of the final plat and to appear on each deed for these lots, “that no vehicular access nor provisions for access to these lots from Hillside Road or McDonald Road shall be allowed.”**
  - b. That vegetative plantings be placed in the buffer area described in 5) above. Said plantings shall be at least four feet in height at the time of planting or replacement and of the variety that grow to a minimum height of ten feet and shall be planted to a density sufficient to create a year-round visual screen of 50% or greater.**
  - c. That the maintenance of this requirement is ongoing for lots 37, 38, and 39.**
  - d. That a landscape and planting plan of the berm and plantings (to the extend that the DNR allows it) be submitted to the Land Use Planning and Zoning Department for review and approval**

**Motion carried.**

- c. Execute Determination Form

### **ONGOING DEPARTMENT/COMMITTEE ACTIVITY**

#### **Work on agricultural districts update.**

Shute – At the last meeting, I said I’d send you something regarding the agricultural districts. Since that time, the DNR has sent a letter regarding non-metallic mining. Changes to the new administrative code will require us to make changes to our non-metallic mining ordinance. By June 1<sup>st</sup>, we have to adopt a new non-metallic mining ordinance and, given the amount of work that is going to be involved with our ag districts, if we pursued that course, we wouldn’t have enough time to amend the non-metallic mining ordinance. With your approval, I would like to adjust our priorities and get the non-metallic mining ordinance amended and adopted and then work on the ag districts. The state has also adopted animal siting laws. A lot of counties are having their land conservation departments handle those regulations. It may be a good idea to get the Land Use Planning and Zoning Committee to meet with the Land Conservation Committee to discuss how to handle this issue.

The committee agreed that the non-metallic mining ordinance be placed ahead of the agricultural districts and that the two committees should have a joint meeting regarding animal siting regulations.

### **FUTURE DEPARTMENT COMMITTEE ACTIVITY**

- a. Animal siting ordinance/license
- b. Nonmetallic mining ordinance

Both of these items were discussed as part of the ongoing department/committee activity.

**CLOSED SESSION PER WISCONSIN STATE STATUTE 19.85(1)(C) CONSIDERING EMPLOYMENT, PROMOTION, COMPENSATION OR PERFORMANCE EVALUATION DATA OF ANY PUBLIC EMPLOYEE OVER WHICH THE GOVERNMENTAL BODY HAS JURISDICTION OR EXERCISES RESPONSIBILITY. (ANNUAL REVIEW FOR COUNTY SURVEYOR/LAND DEVELOPMENT DIRECTOR AND CODE ENFORCEMENT OFFICER)**

**Motion by Mueller/Sell, unanimously carried on roll call (5-ayes, 0-nays), to move to closed session per Wisconsin State Statute 19.85(1)(c) Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility. Motion carried.**

**RESUME INTO OPEN SESSION TO DISCUSS FINDINGS OF CLOSED SESSION**

**Motion by Williams/Mueller, unanimously carried on roll call (5-ayes, 0-nays), to resume into open session. Motion carried.**

**Motion by McConnell/Mueller, unanimously carried on roll call (5-ayes, 0-nays) to accept the personnel evaluations of the Land Development Director and Code Enforcement Officer and to place the evaluations in their personnel files. Motion carried.**

**GENERAL COMMITTEE DISCUSSION**

Shute – I received a letter from a neighbor of a board of adjustment action that occurred last Friday. Our staff report recommended denial. The board of adjustment voted to grant a variance to a nonconforming structure. The woman who wrote the letter is an adjoining property owner and has concerns about the process and the way the board of adjustment decides findings based on the three criteria. Her issue is with the process. I am not sure whether or not this individual will pursue this issue.

**NEXT MEETINGS DATES**

February 7, 2007 – Public Hearing – 6 pm

February 28, 2007 – Business Meeting – 6 pm

**ADJOURN**

**Motion by Mueller/McConnell, unanimously carried, to adjourn. Motion carried.**

Time: 7:29 p.m.

Recorded by  
Carole DeCramer, Committee Secretary

**APPROVED:**

February 28, 2007