

**Lincoln County Planning and Zoning Committee
Thursday, May 10, 2007 at 8:30 a.m.
Land Resource Center Meeting Room**

1. Call Meeting to Order - Meeting was called to order by Chairman Saal at 8:30 a.m. in the Lincoln County Zoning Office. Members present: Saal, Mittelsteadt, Meyer, Rusch and Short along with Dan Miller; Zoning Administrator, and Dan Bowers; Zoning Specialist.
2. Toured sites that will be the subject of the public hearing that will be held at 10:00 a.m
3. 10:15 a.m. Public Hearings (See public hearing notice) – Hearings were held on the items listed in the notice. Hearing called to order by Chairman Saal. Saal, Mittelsteadt, Meyer, Rusch and Short along with Dan Miller, Dan Bowers, June Winters; Program Assistant, Ray Kraemer; Court Reporter and approximately 5 others were present.
4. Discussion by the Planning and Zoning Committee and Decision on the Conditional Use requests which were the subjects of the Public Hearing. Carl Short brought it to the committee's attention that he sees James Wedemeyer in the audience and believes he has something to do with the Conditional Use Request that will be voted on today. Short stated that he and Wedemeyer serve on a library board together and he wondered if he should recuse himself if it is a conflict of interest. Saal asked if Mr. Wedemeyer is here for the CUP and asked Short if he had any financial interest in this specific property with Mr. Wedemeyer. Short stated that he did not and Saal said he saw no reason that Short had to recuse himself.

CONDITIONAL USE

1. A request by Peter Kraut to combine view and access corridors and to allow an opening greater than 30 feet wide along the shoreline of Pickerel Lake. The property is located in part of the NW ¼ of the SW ¼ of Section 6, T34N–R8E, in the town of Harrison; having a tax parcel number of 10.163408.018.000.33.00 and an address of W1605 Osprey Trail. The request is being heard under section 21.09(3)(f) of the Zoning Ordinance

Attorney James Wedemeyer, was present to represent Peter Kraut's in this request. He was contacted by Mr. Kraut because he had been issued citations by the Zoning Department for violations on his property. He reviewed and explained the request. He showed the committee a map that had already been included in their packet. He stated that due to the way they had cut down the trees to create the opening that they had not allowed for the already open area outside of those trees that they were actually taking out and thus ended up with an opening wider than 41' wide instead of the 30' that is allowable. He argued that his client should not have to remove the sand and restore the entire buffer area. He is just asking that Mr. Kraut be allowed to leave the 41' corridor and let the other 2 close up. Mr. Wedemeyer said that he had not received the staff report and not had a chance to review the proposed conditions with his client. Dan Miller asked Mr. Wedemeyer if he could negotiate if necessary on behalf of Mr. Kraut. He wasn't sure if he should without discussing the conditions with his client. Miller discussed the fact that Mr. Kraut has 2 docks out there now and that the area that he had dug out and filled in with sand was not stable and that was a real concern for erosion of the sand into the lake. Wedemeyer said he would like the opportunity to speak to his client. Chairman Saal said that they would continue with the hearing and any other testimony and based on what they hear today they may make a decision today or they may layover the request. Wedemeyer said that Mr. Kraut would be more than willing to negotiate but he himself did not want to make decisions without reviewing them with Mr. Kraut.

Saal read 4 letters of opposition into the record from Pickerel Lake property owners regarding this request. They indicated that in their opinion Mr. Kraut has destroyed the natural beauty of the lake, created a sand beach by digging out and hauling in sand fill (without any permits), left a large metal water slide in the lake after the DNR

had told him to remove it and there was concern that if he is not made to correct these violations it is promoting disregard for zoning and DNR regulations and they all asked that the request be denied.

Dan Miller reviewed the issues. He said that Mr. Kraut built a shed on the property and opened up the beach on the property. The shed (built without a permit) is currently being addressed in the zoning office by Mr. Kraut applying for an after-the-fact permit for an administrative building envelope. The other issue is the cutting violation in the buffer area. He said with the amount of frontage that Mr. Kraut has he would be allowed 3 separate 30' viewing corridors. He has at least 3 cleared areas now. Because the lot is peninsular in shape and there is a 60' buffer depth required his construction and any cutting infringes upon the buffer area. Zoning wants to work with Mr. Kraut and make sure that he has reasonable use of the property but have him restore some of the damage that has been done. He said his concern if we prolong the decision is that if we have a heavy rain there may be more erosion into the lake and create more problems and violations.

Chairman Saal closed the public hearing for the Conditional Use request.

Motion by Mittelsteadt, seconded by Short to APPROVE ON CONDITION the Conditional Use request.
CONDITIONS:

- 1) One view and access corridor will be allowed on the lot. Such opening shall be located to the south of the existing home and can be a maximum of 41 feet wide. Appropriate erosion control measures must be employed subject to approval by the Lincoln County Zoning & Land Conservation departments.
- 2) The two remaining openings shall be allowed to grow back or supplemented with planting as deemed fit by the zoning administrator.
- 3) No docks shall be allowed on the property except within the allowable view and access corridor located to the south of existing home.
- 4) A deed affidavit be recorded; preserving such conditions.

Mittelsteadt commented that there are a number of violations that have occurred on the property of this highly sensitive little lake and it is going to take years to correct this damage. Meyer asked for clarification on the number of allowed viewing corridors. Miller explained that he has a 41' opening and a couple of smaller openings and we would be allowing him leave the 41' if he closes and restores the smaller ones. Short questioned why the Town of Harrison waived their right to submit a recommendation. Miller said that this is their prerogative to do so. Dan Bowers asked for a clarification on the first condition regarding not having to remove any of the sand. Mittelsteadt said there should be a way to stabilize what is there.

Motion carried all ayes.

5. Old Business: Connie Zehner to open a Commercial Animal Services Facility which includes boarding dogs and horses. The property is described as 34.7 acres and is located in part of the SW ¼ of the SE ¼ of Section 20, T35N-R7E, in the town of King; having a tax parcel number of 12.203507.015.000.00.00 off of Spring Creek Road. The request is being heard under section 17.3.04(16) of the Zoning Ordinance.

Dan Miller explained that the applicant has not yet obtained approval from the Town of King and asked to layover her request at this time. He said that they have an onsite scheduled with Zehner for next week. Motion by Saal, seconded by Mittelsteadt to LAYOVER the Conditional Use request. Motion carried all ayes.

6. Northern View Estates - Final Plat Approval – (Harold DeHart) Town of Bradley - County Rd A & DeHart Dr.

Dan Miller explained that the applicant had hoped to have a special meeting with the Town of Bradley to get their final plat approval but that has not happened so they should be coming back to the next meeting to request our final approval.

Motion by Saal, seconded by Rusch to LAYOVER the final plat of Northern View Estates. Motion carried all ayes. Committee moved to item #8 on the agenda.

7. Approve Non-metallic Mining Ordinance amendments – Dan Miller reviewed the amendments to the ordinance. Motion by Saal, seconded by Mittelsteadt to APPROVE the amendments as presented and send to County Board on May 15, 2007. Motion carried all ayes. Committee moved to item #12 on the agenda.
8. Discussion of need for a fencing ordinance – Mittelsteadt explained that he sees a need for some type of regulation for fencing issues. He thinks if we have a fencing ordinance it would eliminate future problems. He said that because it is unregulated there is a lot of fencing disputes out there and there is a definite problem. Short agreed with Mittelsteadt and also thought fences should be regulated to avoid problems between land owners.

Jackie Stoflet was present and spoke in support of creating fencing ordinance, at least in the Town of Merrill. While she was speaking her daughter submitted several pictures for the committee's review showing their specific problems. She stated that over the last 2 years their neighbor has put up both a 6' privacy fence first (with the "good" side of the fence facing themselves) and then after they had the lot line surveyed to find out exactly where the line was the neighbor also put up a shorter wire fence one beside the privacy fence. It is very unsightly and she feels that the shorter wire one may have sharp edges and the stakes from the survey may be dangerous. She doesn't understand why there are no regulations regarding fences to prevent problems like this occurring. She has looked up the state statute regarding "spite fences" and feels that this may fall under that but doesn't think she should have to get a lawyer when this is something that should be addressed by an ordinance.

Dan Miller explained what we have currently in Chapter 17 (Zoning Ordinance) and Chapter 21 (Shoreland Ordinance) regarding fencing. He said that we have a huge range of property characteristics in the county, rural open lands and tight residential developments. He agreed that we could look at regulations in the Residential Zoning districts but he said that it would be difficult to do a "one size fits all" county wide. Saal agreed that it would be a difficult ordinance to write to provide flexibility. Miller asked Mittelsteadt if he is just recommending that standards be set or permits being required. Mittelsteadt thinks that it should be permitted use so that we have control and prevent problems. Saal stated that it is a difficult issue and even when fences are regulated it may not solve all of the problems. Miller understands that there are issues but doesn't know how far we should go aesthetically in standards and regulation. Mittelsteadt said he just wants something "reasonable" to protect people. Short suggested we obtain and review other municipalities' ordinances to get an idea of a reasonable ordinance and proceed from there. Miller stated that from previous experience the amount of compliance that may be required may be more than our department can enforce. Bowers stated that he didn't think that with current workload that existing staff could enforce all of the problems that may arise out of regulating fences and that they are more of a civil matter of neighbor not getting along with neighbor. Saal said that he agreed that at this time we should review regulations in other rural areas. Mittelsteadt said that we should look at covenants that exist in subdivisions at least. Meyer asked Stoflet if she had presented this problem to her township. Stoflet stated she had not, she had only asked if they regulated fences. Mittelsteadt stated that he just wants to see some simple regulations to protect people. Saal said that this issue should be an agenda item in the next couple of months after Dan Miller has had time to research the issue. Mittelsteadt asked that the information be sent directly to him. Miller said he will create a packet to send out to the committee.

Stoflet stated that had the good side of her neighbors' fence faced her she would have no problem. She understands that rural areas would not be consistent with residential restrictions but it could be worded so that if the lot size is smaller than a certain dimension the regulations would apply. She said that she has checked with other townships

and they don't have anything applicable to small lots like hers which is why she thinks there is a need for rules to avoid problems like she is experiencing now.

At 11:30 Saal asked for a 10 minute break. Meeting resumed at 11:40.

9. Address Mark Voigt's complaints – Dan Miller reviewed a list of issues that had been taken care of. First the inconsistency in Zoning. Miller said that 5 residences are involved near the intersection of County Rd K, County Rd G & Pinewood Ln. Dan Miller, Mr. Voigt, Bill Burgener, Donna Eckerle & Mike Matushak had a meeting in the Zoning office and we are looking at rezoning the 5 parcels involved and that issue is being addressed. We are looking at CMU to accommodate both the homes and existing businesses. Mark is working on getting the rezoning petition together and submitting it to our office. Second are the issues with the business (Victory Lane) next door to his home. They have been sent a letter to either remove the lights or shield them appropriately. The business has made an attempt to shield the halogen lights on the volleyball courts but has not solved the problem so this issue still needs to be resolved. Third is the stormwater issue. Mr. Voigt states that the water draining off of County Rd G & Pinewood Ln. is flooding their yard. A letter has been sent regarding the limitations for impervious surfaces and that may prevent the owners from paving more area. Voigt stated that there is also a problem with flooding from the big stone wall that was put in to hold the sand for their volley ball court. He said that the volleyball court is partially located in the right of way for county rd K. Saal said that he has spoken to Randy Scholz regarding the encroachment. Miller said that he has received a letter from Scholz. Saal clarified that that issue may be between Mr. Voigt and the Highway Department and not with Zoning. Miller stated that Merrill adopted the code he thought in June of 2005 and that the volleyball court and rock wall had been installed before that so he doesn't know if the stormwater portion of our ordinance could be retroactive. Saal suggested that they follow up with the owners of the business on the lighting issue because apparently that is not being complied with. Miller will do an onsite with Voigt at the property regarding the flooding issue. Saal suggested that this be brought back as an agenda item next month regarding the rezone, lighting and drainage issues.
10. Public Comment Opportunity – No public comment. The committee returned to item #7 on the agenda.
11. Approve the April 12, 2007 meeting minutes – Motion by Mittelsteadt, seconded by Rusch to approve the April 12, 2007 meeting minutes. Motion carried all ayes. Committee returned to item #7 on the agenda.
12. Administrator's Report - Dan Miller reviewed & discussed the Administrator's report. He said that he attended a settlement meeting with WPS, Secluded Lands & Attorneys on April 26th and he said that WPS has submitted a motion to dismiss without prejudice. He said that they may be submitting a new rezone request for a portion of the land that was included in the lawsuit. The committee reviewed compliance report. Mittelsteadt questioned why the new recreation officer was involved in a septic violation. Bowers said that he had requested that DNR Warden Peters do an onsite on a complaint of sewage going into Devil's Creek, and he believed that the new recreation officer was interning with Peters that day. The committee reviewed the financial report.
13. Adjourn - Motion by Mittelsteadt, seconded by Saal to adjourn at 12:08 p.m. Motion carried all ayes.