

Lincoln County Planning and Zoning Committee
Thursday, February 12, 2009 at 8:30 a.m.
Lincoln County Service Center, Meeting Room 156

1. Call Meeting to Order - Meeting was called to order by Chairman Saal at 8:30 a.m. in meeting room 156 in the Lincoln County Service Center. Members present: Saal, Meyer, Mittelsteadt, Eisenman and Rusch along with Dan Miller, Zoning Administrator, Dan Bowers; Zoning Specialist, Ben Niffenegger; Shoreland Buffer Specialist and June Winters; Program Assistant.
2. Tour site that will be the subject of the public hearing that will be held at 10:00 a.m. – Committee Members, Miller & Niffenegger left to tour the site listed on the public hearing notice.
3. 10:00 p.m. Public Hearing – Hearing was held on the item listed in the notice. Hearing called to order at 10:15 a.m. by Chairman Saal. Saal, Meyer, Mittelsteadt, Eisenman and Rusch along with Dan Miller; Zoning Administrator, Dan Bowers; Zoning Specialist, June Winters; Program Assistant, Mary Heederik; Court Reporter and 7 other persons were present.
4. Discussion by the Planning and Zoning Committee and Decision on the Conditional Use request which was the subject of the Public Hearing.

CONDITIONAL USE REQUEST

1. A request by Roger and Courtney Turner to combine two allowable 30 foot view corridors into one 60 foot view corridor. The property is located in the NE ¼ of the NE ¼ of Section 06, T35N–R6E, in the Town of Bradley, and has an address of W7016 Wimmer Rd. The request is being heard under section 21.09(3)(h) of Lincoln County Ordinances.

Roger Turner was present to support his request. He explained their request and gave the history of the property. He explained the plantings that they had done and that they were just requesting that the existing view corridors be left as is. Because of mitigation for the garage permit he obtained, he is being made to restore the vegetation in the existing view corridors. Turner stated that there was some confusion between he and Miller on what had to be restored. He stated that they have 417 feet of frontage and just wish to leave the one wider corridor. Turner presented the Committee with photos of the property and commented that they do not have an overly wide view corridor compared to other properties on Lake Nokomis. He stated that they did not remove any trees as Zoning is stating and the older photos indicate that. Meyer questioned the date of the aerial photo. Miller explained that it was taken spring of 2005. Turner stated that he purchased the property in 2006.

Miller went on to discuss a letter that he had written to Turner in March of 2007 regarding the options that he may have for the buffer restoration. He discussed follow-up conversations that they had. Miller referenced the affidavit that had been recorded. There was a misunderstanding, at that time, between Turner and Miller as to how much must be restored.

Saal asked for clarification on the issue of the property ownership of WVIC. Miller indicated where the parcel lines were on the aerial photo. Miller tried to explain exactly what Turner owned and what was WVIC land and where the buffer was located for the Committee. Turner stated that when he purchased the property, he walked the property with the previous owner to locate property stakes and he was questioning that the property that he pays taxes on is decreasing because of erosion and that WVIC's land is not decreasing but increasingly encroaching onto his property. Miller stated that WVIC land has a dynamic description and it may move as the erosion occurs. Sometimes increasing, sometimes decreasing. Mittelsteadt questioned the configuration of the WVIC land. He questioned why WVIC was not required to restore the buffer. Miller explained that with the license that the property owner obtains from WVIC it gives them certain privileges but binds them to certain

responsibilities and they are bound to follow county and state shoreland regulations for the property. Mittelsteadt questioned why WVIC isn't responsible and not the adjoining property owner who has taken out the permit with WVIC. Miller wanted Mittelsteadt to clarify if he was saying that we should be going after WVIC for buffer restoration and Mittelsteadt just stated that WVIC is actually the owner of that 30 foot parcel. There was more discussion on the responsibility for that 30 foot strip and as to whether or not it is a separate parcel.

Miller referenced a survey from 1972, and indicated that the 30 foot strip owned by WVIC was shown on the survey but it is dynamic and possibly changing because of the constant erosion. Meyer asked about the license that the owners have with WVIC. Mittelsteadt still questioned why WVIC is not responsible for the upkeep of that 30 foot buffer. Miller stated that the responsibility transfers to the adjoining property owner with the license that WVIC issues them. Saal said that because of the agreement there is "use" of the waterfront, but Mittelsteadt argued that it was still not ownership and WVIC should be responsible. There was lengthy discussion on license vs. ownership on that body of water. Miller said that if we followed that logic then there wouldn't be any view corridors allowed because technically the property owners do not own that 30 foot strip. Zoning acknowledges the agreement and our ordinance recognizes that some of the rights are transferred to the lessee.

Turner maintained that if erosion is changing the description of the WVIC land his property stakes should be moving with the erosion that is occurring and he should be gaining more property. Miller stated that his legal description is more than likely based on the location of the stakes and his legal description is stable and would not move. Miller said unless we are told differently we will require the adjoining land owner to maintain the buffer even though it is WVIC land. Bowers said that under the license agreement the adjoining land owner is the one required to maintain the buffer. Turner again stated that he just wanted to enjoy their property in Tomahawk and to leave the view corridor as is and is questioning why he can not do that when a lot of the adjoining properties have almost clear cut their entire properties.

Harry Gladwin was present from the Town of Bradley Plan Commission and stated that the request was approved by both the Plan Commission and the Bradley Town Board recommending asking that the three conditions as listed on the staff report be put on the request if granted. Gladwin also said that after seeing the letter from Mr. Coon at WVIC regarding a fire pit, in speaking to Mr. Hoerter at WVIC he was told that when an adjoining land owner has a license agreement with WVIC the licensee is bound to adhere with Zoning and other state regulations. Meyer asked about the license agreement and Gladwin read a portion of the license agreement that he had. Gladwin stated that Mr. Turner has been very cooperative with the township.

Mark Voigt was present stated that this is not a FERC reservoir as the FERC act came in 1935 and this project started in 1929. He said that the question of "ownership" that Mittelsteadt is making is a very valid question.

Miller read into record a letter from a 1991 Variance hearing from Bob Gall at WVIC regarding this same property. It said that WVIC's intent with the license agreement was to give the adjoining landowners access to the water. He stated that this is a FERC reservoir. He read on to say that the letter said that the licensee's are bound as any other waterfront property owner in their use of the WVIC land.

Saal read into record a letter from David Coon at WVIC dated February 10, 2009. They are opposed to the Conditional Use Permit request, and fear that this will set a precedent for wider view corridors on Lake Nokomis.

Saal closed the hearing for the Conditional Use request.

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

- 1) The applicant be allowed a single combined view corridor no wider than 50 feet in the area proposed, northeast of the home. No other view corridors will be allowed on the property.

- 2) The vegetative buffer zone must be restored and maintained to a depth of 35 feet from the ordinary high water mark along the remaining shoreline of the property, with exception for 15 feet around the existing home, as indicated in a deed affidavit that is recorded in the Lincoln County Register of Deeds,
- 3) Any future boathouse or other allowable structure within 35 feet of the ordinary high water mark must be located within the allowable view corridor.

Saal stated that he sees this motion as a compromise. He reviewed the checklist that they refer to when making their decisions and felt the motion is supportable based upon their review criteria. Meyer stated that the agreement with WVIC is so abstract it is understandably very confusing. Mittelsteadt stated that WVIC has a double standard and should be held to maintaining the land. Rusch asked Miller how he came upon the 50 foot figure for the view corridor. Miller said that it was discussed at the site with staff and the owner that 55 feet would be the widest considered but that our office would only support up to 50 feet as that was the widest that has previously been previously granted. Mittelsteadt stated that it is a compromise.

Motion carried all ayes.

5. Discuss issues regarding Victory Lane & Mark Voigt property at the intersection of County Rd K & Pinewood Ln in the town of Merrill. (follow-up from "Public Comment" on December 11, 2008 meeting) - Dan Miller reviewed the issues for the Committee going through his memo that he had prepared for them. He said that he and Voigt have discussed several time the easement issues on the property. Victory Lane now exceeds the impervious surface limitations and he has discussed this with the owners of Victory Lane. Voigt said that they do not have an easement to flow any water across his property. They have plowed snow onto the easement that is not paved and he believes that this is in violation of the easement. They have a license to park vehicles and they have paved more than they should. Saal asked for clarification that they did not exceed the limits that were in effect at the time that it was paved and they have not paved any since. Miller and Voigt agreed with that statement. Voigt's concern is with the drainage of the snow that was put on the parking lot and Voigt's property. Miller stated that he can not regulate where the snow is being piled. Mittelsteadt said that it appears that the complaint is not something under this Committees' or Zoning's control. No action taken.
6. Public Comment Opportunity - Harry Gladwin just commented on fact that he wanted to say before that he was confused by the responses from the different representatives from WVIC in regards to the Turner Conditional Use request.

At 11:30 a.m. Saal called for a 10 minute break. Meeting resumed at 11:45 a.m.

7. Updating the County Comprehensive Plan - Miller reviewed the update process with the Committee and the deadlines involved. He referred to the outline he had prepared for the Committee for the steps proposed. Miller said we are going to try to do as much of the work "in house" as possible with existing staff. We will be working through the Administrative/Legislative Committee to present a resolution to County Board in March for the public participation element as the first step. He stated that this is not just a "Land Use" plan but more focusing on economic development, housing, transportation, agriculture & natural resources planning in the county. Kick off with the towns is scheduled for March 23, 2009. Eric Olson from UW Stevens Point has agreed to speak on that date at an educational meeting for the towns explaining the Comp Planning Law. He will explain the townships' responsibility in the process. Mittelsteadt commented that with the current economic state and the different philosophies in the townships there may be difficulties in agreeing on a lot of issues and it may not pay to get real "in-depth" with the planning.
8. Discuss the 2009 WAL (Wisconsin Association of Lakes) Conference - Miller shared the conference info with the Committee. He said that Saal had expressed some interest in attending and Saal said he will be going under authorization from the Land Information Committee.

9. 2009 Lake Protection Grant & Shoreland Buffer Specialist - Miller introduced the Committee to Ben Niffenegger who is the Shoreland Buffer Specialist that Lincoln and Langlade Counties share. Niffenegger explained to the Committee what his position involves and how he interacts with the riparian property owners regarding shoreland restoration as far as educating the public, the land owners and monitoring the restorations. Niffenegger stated that this is a perpetual process and stressed the importance of obtaining grant funds when available. Mittelsteadt said that it is very important to have someone knowledgeable for helping land owners with the restoration. Miller said that Langlade County applied for the joint application the first time and now it is Lincoln County's turn to apply for the grant. We plan on submitting the application in May. Miller stated that we have letters of support from Diane Hanson in the Land Conservation Department and from the Lincoln County Lakes Association.

Motion by Saal to take a resolution of support to the County Board approving the Lake Protection Grant and the Shoreland Buffer Specialist, seconded by Rusch. Mittelsteadt wanted it known that this is a continuation of part of an existing program and not something new. Saal commented that there will be no fiscal impact to the County. Miller will prepare a resolution for the March Zoning Committee meeting to be forwarded to County Board in March.

Motion carried all ayes.

10. Discussion and decision on proposed Budget Modifications and Carryover Request – Dan Miller explained the Budget Modifications (end of year clean-up in accounts) and the Carryover Request (carryover funds for the Comprehensive Plan Update) to the Committee.

Motion by Mittelsteadt, seconded by Eisenman to approve the Budget Modification & Carryover Request as proposed. Motion carried all ayes. Committee signed the Budget Modifications form. They will be forwarded to Finance.

11. Discuss cost saving ideas - Miller proposed cutting cut down on the paperwork that is sent out to the Committee by projecting some of the supporting information for all to see as exhibits during the hearing. There was some discussion on this and a consensus that it depends on the request as some of the information takes time for them to "digest" when making their decision. Miller also suggested that we start doing more "virtual" tours to save costs. Meyer stated that this would only work if we had a 360 degree tour of the property. Mittelsteadt stated that the decisions they make do affect peoples' lives and that they should have all of the facts and information to base their decisions on. It may be difficult to cut out the tours. There was discussion on the tough economic times and the cuts that we need to make.

12. Approve the December 11, 2008 meeting minutes – Motion by Eisenman, seconded by Saal to approve the December 11, 2008 meeting minutes. Motion carried all ayes.

13. Administrator's Report - Miller reviewed with the Committee the activities since their last meeting. The Committee briefly reviewed the compliance and financial reports. Miller reviewed correspondence that had been received. He talked about an opportunity on March 26, 2009 that he had received from the Wisconsin Counties Association that he encouraged the Committee to attend.

14. Adjourn - Motion by Mittelsteadt, seconded by Saal to adjourn at 12:25 p.m. Motion carried all ayes.