

**GREEN LAKE COUNTY
LAND USE PLANNING AND ZONING COMMITTEE
Public Hearing Minutes – January 3, 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, Wis. The requirements of the open meeting law were certified as being met.

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

Absent:

Also Present: **Al Shute**, County Surveyor/Land Development Director
Dan Sondalle, Assistant Corporation Counsel
Carole DeCramer, Committee Secretary
Orrin Helmer, County Board Chair

APPROVAL OF AGENDA

Motion by Williams/Sell, unanimously carried, to approve the agenda. Motion carried.

APPEARANCES

Berlin ETZA, Mary Lou Neubauer

Deliberation/action Agricultural Preservation Plan text and map

Mary Lou Neubauer, City of Berlin – What I am presenting to the committee has to do with the exclusive agricultural preservation districts. Those are districts that fall within the extraterritorial zoning area (ETZA) adjacent to the City of Berlin in the Town of Berlin. In 1995, the ETZA was first enacted. We had to generate a farmland preservation plan similar to what the county has for that area. We also had to create exclusive agricultural zoning districts and the zoning code for it. This is the initial plan that was adopted. It was certified for a period of ten years and that expired at the end of 2005. Now we are required to recertify our farmland preservation plan, our ordinance, our ordinance map and text. Throughout 2006, we generated an amended plan and presented it to the state Land and Water Conservation on December 5th. They approved the plan, text, and map and one of the conditions was that the agricultural preservation plan be approved by the county and be made a part of the county plan. This is only for areas within the ETZA in the Town of Berlin. The county would have to hold a public hearing, adopt it, and then forward to the state. We created a plan and held a public hearing prior to adoption. It was mailed to every city, village, and town in Green Lake County and Waushara. There were no appearances. Our council adopted it at the December meeting. The county has through the beginning part of this year to incorporate it into its plan. It would be adopted as an addendum for those areas that fall within the ETZA boundaries.

Sondalle – Under the order on page 3, sub 5, regarding the ordinance for the zoning ordinance map. Does that come from the City of Berlin or the county?

Neubauer – The City of Berlin. The ordinance, text, and map all come from the city. When I sent information over to Al (Shute) for the agenda, there was the inclusion of the text and map language too, but that does not have to be addressed by this board.

Sondalle – In your packet was a summary of statutory procedures as to what the county has to do. There is a letter dated December, 2006, to Al (Shute), and the information she has in there is accurate. That's the procedure you have to follow.

Shute – (Directed to Neubauer) You said you sent everything to the towns, cities, and villages. We have to do that again?

Neubauer – We just have to send a notice. We do not have to send the entire plan document. I clarified that with the Department of Agriculture. This is an 82-page document plus maps. The plan can be viewed at our office or at your office prior to the meeting. We would need a class II notice.

Shute – Dan (Sondalle), is it appropriate procedurally that once we set a date, Mary Lou can mail everything or should she provide us the information and we do the mailing?

Sondalle – That's up to you.

Neubauer – I have all of the addresses for the county municipalities so we would be able to generate a letter that would outline it and you could attach your agenda.

Sondalle – We'll hold the public hearing and then it would go to the county board.

Neubauer – The county board has to pass a resolution.

Shute – Is there a time frame?

Neubauer – We have a year. There is no time crunch. We have to notify the entities sixty days prior to the public hearing so that will put it back to almost April.

Sondalle – We have to do the same thing. I think what we should do is the three of us get together and create a timeline.

Shute – We would then report back to the committee.

Sondalle – We'll get together within the next three weeks and report back at the next business meeting.

PUBLIC HEARING MATTERS

Chairman Biesenthal read the Rules of Order.

Before the following public hearing item was announced, Assistant Corporation Counsel Dan Sondalle stated that he would step down and not participate in any way due to the fact that this issue creates a conflict of interest.

Item I: Applicant/Owner: Wisconsin Realty Development – John Diedrich, President **Agent:** STS Consultants, Ltd. – Christopher L. Murawski, P.E. **Tax Parcel # and Description:** 004-0560-0000 - NE¼ of the SW¼, Section 23 Exc Lot 1 CSM 2629 V13, T16N R13E, (±32.352 Acres); 004-0561-0000 - NW¼ of the SW¼ Exc That Part NKA Sunnyside Acres Hillside Plat, Section 23, T16N R13E, (±6.00 Acres); 004-0563-0000 - SE¼ of the SW¼ Section 23; Exc that Part of Sunnyside Acres Hillside Plat & CSM 1033 Lying Therein Exc That Part of Lot 1 CSM 2796 Lying Therein, T16N R13E, (±34.526 Acres), All Parcels Located in the Town of Brooklyn **Location of Premises**

Affected: South of Sunnyside Road and East of Hillside Road **Explanation:** Final Plat for Sunnyside Acres Silver View

a) Public Hearing

Attorney Steve Sorenson – I’m appearing here tonight on behalf of the developer, Wisconsin Realty Development. Also present are John Diedrich (President), Rick Diedrich (Real Estate Broker), and Chris Murawski (STS Consultants, Ltd.). We’re prepared to go ahead tonight with the request, that the board discuss and deliberate on this request, but I did have a short meeting, I think most of you saw me talking to Al (Shute), before the meeting started so that I could be on board with some of the comments I saw in Al’s last staff report that you received, and we addressed that. Chris is going to hand out the letter that was just completed today that addresses the specific issues that have been raised by Al. I understand that in Al’s report one of the things he has suggested is that he would like to have this laid over. Certainly that can happen, but what we’d like to do is at least go through these points to show you that, with some certainty, that each one of the points that was raised by Al has been addressed. One of the problems that I think Al would tell you, and we can recognize, is that he did receive probably an inch-thick materials (dated January 3, 2007, from STS Consultants, Ltd.) that has a lot of the answers to the questions over the conditional use permit that was approved previously by you to show that each one of those issues has been addressed. I would like to go through the items with you tonight and then you can take whatever action you want. We can certainly answer whatever questions you have. We do have the experts here to try to address answers to questions that you may have. I appreciate that there is a lot of material here and we’ll understand if you decide you need more. The key is, I think, what we want to come out of here tonight, if we can’t come out with an approval, is at least an understanding of what the checkmarks that have to be done so that we have to bring everybody back again and go through the whole process again. I think based on the first meeting, when the preliminary plat was approved, everybody thinks this is a good project as long as all of the t’s are crossed and the i’s are dotted. I know the Town of Brooklyn has approved it. The City of Green Lake has approved the project and you have that information available to you and Sue McConnell can tell you what went on at the town. What I would like to do is have Chris (Murawski) take you through this letter that he has put together and answer any questions and concerns, if that would be acceptable to the committee. I think it’s good to take advantage of him when he’s here to go through those items.

Chris Murawski, STS Consultants, Ltd., 558 N. Main Street, Oshkosh, Wisconsin

Mr. Murawski addressed each of the points that were listed in the aforementioned letter dated January 3, 2007, to Alan Shute. (Letter/Document in parcel file)

Concerns brought up by Shute included retention pond safety issues, the appropriate county committees deciding whether or not to obtain park land, posting speed limits, piers and the water depth, vacating Hillside Drive and McDonald Road south of Grant Street, and the one hundred year flood within the creek.

Sell – Where is the parking area for the people using the public access?

Murawski – The street.

Sell – For how long?

Murawski – The DNR doesn’t want vehicle access into this area and neither does Land Conservation.

They don't want oils outside of the right-of-ways creating additional runoff that won't get to the pond. In this case, the access to that will have to be on the road. That's to preserve the environmentally sensitive area. There is a culvert that will be supplied that allows for a 24' access to this area and is there to allow emergency vehicles, if necessary, to get to the boat slips. It's not an area that is going to be allowed to have vehicle access. You could have golf carts so that the owners could get to one area from another without having to drag all of their equipment.

Mueller – Are you confident that you can either legislate or come to a final situation where fire fighting equipment or the sheriff's people can get in without using golf carts? Is it going to be a drive with gravel or the general marsh-like dirt that is typical of that whole area?

Murawski – We've been told no impervious use.

Mueller – That, to me, means that there is no real assurance that you can get a water wagon or something similar into that area.

Sorenson – I think we have to answer that question from the fact that the DNR is not allowing us to put anything impervious along that access point. They're strictly prohibiting that. It's a Catch-22, Gus (Mueller). They're saying we can't do it and you're saying, for safety reasons, you ought to be able to do it. What you'll end up doing is ending up with those small four-wheelers like a Jeep-type vehicle that will be able to get down there. They'll rip it up, but they'll get down there. That's one of the advantages of having the pond there because the pond will provide you with water access in case you need that. This has been a long process. One of the things you have to remember is the huge compromise that involved the Sanitary District, the Department of Natural Resources, and working with the Green Lake Association to try to get to this point and try to maintain the balance between all of the interests. This is about as good as it's going to get as far as balancing everybody's interests. No one is going to get it perfect. That's all there is to it.

Mueller - That doesn't justify it, does it.

Murawski – There has been a condition that there will not be any building down there.

Shute – There will not be any houses on that outlot. It will be open space with a non-impervious path leading to the piers. I'm not aware of any requirement that would prohibit a gravel or paved surface on this public access. This will be dedicated to the town. If someone wanted a hard surface or a compacted surface to make it easier to access the water, they would be going to the town requesting that after this plat is approved and recorded. It's possible that there could be a surface there. It doesn't say that they have to provide parking with the access. It's just a point of access to get to the water. One last question, Chris (Murawski), has this been submitted to the Department of Administration for plat review?

Murawski – It has been.

Nancy Hill, W1399 Spring Grove Road – I'm certainly in favor of this project. The joint advisory committee, the Green Lake Sanitary District, and the Green Lake Association certainly approve this project with the compromises that the owners and developers have made. I think they need to be commended that they have worked so hard to achieve something that really does benefit the lake and also allows a property owner use of his or her property. I do have a question. Is gravel considered an impervious surface?

Shute – By the DNR, it is.

Hill – How many piers? I know you have 39 slips, but do you have a number of piers?

Shute – Two.

Sorenson – That’s what the plan was that was submitted. The DNR still has to approve it.

Murawski – We have to have a one-to-one ratio in regard to slips to lots.

Hill – This area will be served by the Green Lake-Brooklyn volunteer fire department. I noticed in the City of Green Lake, there is a Grant Street and a North Street. I thought the policy of the county was not to create any new roads that are already named in the county. Because they are geographically so close, and I don’t know how dispatch works, and I don’t know what kind of information is given out in an emergency, I would hate to see someone going to North Street in the City of Green Lake instead of North Street in Silver View.

Shute – The Judicial and Law Enforcement Committee reviewed the road names for this plat and they denied a couple of the names. That was going to be one of the things that I was going to be working with Chris on. The committee thought that the names were too similar and confusing. We’ll have to come up with something that works for them.

Sorenson – Is that a letter that has been distributed?

Shute – No, it’s draft minutes from their meeting.

Sorenson – We don’t have a problem with that, we just didn’t know about it.

Shute – I’m aware of that.

Public hearing closed.

b) Committee Discussion and Deliberation

Shute– You have heard a lot of information. As far as what you choose to do, you can approve, approve with conditions, or deny. Those are your three options. There is enough information in front of us to make a decision. It’s just a matter of which one the committee feels comfortable making. With the issue of park land, do you want to wait for a recommendation or input from your Highway and Parks Committee on park land, or do you feel comfortable moving forward without that information? The DNR permit, with respect to boat slips, that is also covered under the conditional use permit where you imposed the condition of the one-to-one ratio (one lot, one boat slip). We’ll be monitoring that as staff as that Chapter 30 permit is reviewed and approved. The vacation of Hillside Road came up at the preliminary plat level and vacation was an option that got some discussion at that time. The presenters of the subdivision were not opposed to that. The county’s ordinance prohibits double-fronting lots. The city, at the preliminary plat level, indicated that they wanted to see those double-fronting lots go away. The town also has a requirement in their ordinance that prevents double-fronting lots. Vacating that roadway would continue to be staff’s recommendation. The other conditions, if done as conditions of approval, I would not have a problem monitoring these as they go along and as they’re complied with. It has been a long process. It started before I became the director

and I'm not trying to prolong it. I don't think there is anything here that can't be monitored and watched as we go along. We do have to modify the conditions to include that acceptable road names be attached to the plat. There are some floodplain conditions where they're doing filling and rerouting of that drainage way. We will be monitoring those areas for compliance with floodplain and shoreland ordinance.

Mueller – So there is no park land in this development?

Shute – There is no public park land in this development. There is private, open space which is this outlot 1 that was rezoned recreational. The only public lands that you'll have in this development are the roads and that public access and those will be dedicated to the Town of Brooklyn.

Mueller – You just feel that people in these lots don't want any park land.

Shute – I don't know what the people in these lots want. The ordinance provides for the county to determine if park land is needed and appropriate as developments occur. It was my job to make this committee and the Parks and Highway Committee aware of this development and what the ordinance says. From there, it's their choice as to how they decide to handle that condition.

Orrin Helmer, Town Board Chair – The only thing is that the highway commissioner informed me that he did not get the information in time to get it on the agenda. If he is going to have it on the meeting for this coming Monday, I have not heard that. I do not know that. But it has not come to that committee for their determination if they wish to take part of the development and call it a park.

Shute – We've done our normal mailing to all of those departments. I don't know where their meetings hit and we have not heard back from the highway and parks.

Helmer – I can find out if it will be on the agenda for this coming Monday. That committee can determine if they wish to reserve part of this for future development or if they feel that they would not want to take part of this development for a park. I can't speak for them.

McConnell – I'm concerned that Al's concerns are addressed. He has pretty well reiterated what his concerns are. Looking at the outlot by McDonald Road and the end of Hillside, on our plats it says unimproved roads. There is no road there now, is there?

Shute – No, there are provisions for it.

McConnell – To the north of unimproved road, lot #1 off of Grant Street, is there a house there? I don't recollect if there are any houses.

Shute – There are some houses to the south side of Grant Street. I don't know if lot 2 is the lot with a residence on it.

Sorenson – One thing you need to remember is McDonald Road and Hillside Road are not part of the plat, therefore you can't deal with those roads because they're not part of the submitted plat. They're outside of the plat. You can't take land that isn't part of the application or the permit. You can't do that. In this case, you've got the same developer, but legally that could be somebody else that owns that land, and you can't tell somebody else that here is a dedicated roadway that has already been approved by another governmental unit and we're going to take that away as a condition of approval of another plat. That's not legal. You can do it tonight, but I can guarantee it, and I'm telling you as an attorney who deals with municipal law, somebody is going to come along and say that you didn't have the authority to do that. That's why we recommended taking and saying on the plat that we submitted that you couldn't access Hillside or McDonald from these lots to get away from the concern of it being

a double-access lot. That's the only thing that we have the ability to do. That's why we recommended doing it. You're right. That may never be developed because a lot of it is wetland. In fact, on lots 37 and 38, you don't have enough room to get out to the road really other than a little bit on 38. Thirty-nine does have room, but 39 already has Silver View Circle and Grant Street to go out on. They probably won't go out on all three streets. What you have to remember tonight is that I don't think you can require the vacation of a road that is not part of the plat. I just really don't think you have the authority to do that. I know you can't ask your attorney for that, but I think it makes logic, too. It's not part of the application; it's not part of the plat so to require that to be vacated, I don't think you have the authority to do that. I don't mean to cause problems, I just thought you should know that going in. Somebody else down the line is going to say, "Nice try but you really didn't have the authority to do that as a condition of this approval."

Helmer – You couldn't take lots one and two because they're not in the development. It has to be something south of that black line.

Shute – With respect to the vacation, I don't disagree with anything Steve (Sorenson) has said. The only reason my staff report pursued that is because, at the time of the preliminary plat, that was an issue for three governmental entities and their ordinance. Vacation was an option that came up at the public hearing for resolving the problem. Steve is probably right. We can't use something outside the plat to remedy the problem, but we can, certainly, work within the boundaries of the plat to obtain compliance.

Sorenson – That's why we recommend that we put those restrictions so they can't access.

Shute – Or design lots that comply with the ordinance.

McConnell – It's my feeling that this is a good project and it has come a long way. There were lots of compromises, but I think, like Al said before, we could go ahead and grant a conditional approval at this point and monitor the DNR response, the names, and the park land.

Shute – If you're going to approve with conditions, I would suggest you look at items one through nine and add ten for road names that are approved by the Judicial and Law Committee and then work from that list. If you feel some should be deleted, that's your choice. Before you approve with conditions, I think you need to take a separate action to waive design requirements on #4, the centerline radius reduction.

McConnell – At the town level, we spent two hours going through all of these conditions and items and additional and raised questions and issues. We felt that these things had been resolved and we approved the plat to come to the next level.

Shute – How was the double fronting dealt with?

McConnell – No, I don't think it was brought up at all.

Mueller – I think we need to hear discussion on the double-fronting lots.

Helmer – Like the director said, you have to go over each one of these points and decide what you want to do with it and either move on or whatever.

Sell – I think we should see what Parks and Recreation says.

Helmer – They'll be looking for a recommendation from your committee, I would think.

Shute – The way we did Lake Maria, we sent it to Highway with no recommendation because that's their area of jurisdiction.

Helmer – But there was a park there where we just added some of the plat to it. Here, what would your recommendation be?

Shute – Parks are not within this committee's jurisdiction. It would be the Parks Committee and the staff that works with that committee to determine if the county's needs are being met with park land. They would then make a recommendation back based on that to this committee to fulfill that item on the list.

Williams – Some of those parks are nothing but a headache, and in some places they want them.

Shute – The Parks Committee can sort all of that out.

Sell – That's what I would say.

McConnell – When do they meet?

Helmer – Monday, but I don't know if it's on the agenda.

Shute – He's had the information for 2-3 weeks now. I know we sent the information.

Mueller – I would delay a vote until we hear back from them on parks, double-fronting lots, the names of the streets, and the other points covered.

Williams – Some questions should be answered first.

Mueller – Yes, I think they should. They're not new; the questions were there before.

McConnell – The street names are dealt with Judicial and Law and not Highway. They'll meet on the 10th.

Mueller – Street names are critical.

Shute – Something like that we can monitor internally.

Helmer – It is on the Highway agenda that is posted.

McConnell – Would it be prudent to hold this over until the business meeting at the end of this month?

Mueller – That would be fine by me.

Shute – The direction on Steve's comments and the issue of vacating the street that is causing the issue of double frontage.

McConnell – The double frontage is strictly dealing with lots 37, 38, and 39?

Shute – Yes.

McConnell - Can you check back with Mike (Wuest, Town of Brooklyn Chairman) and plan commission to see if they have anything to say about that?

Shute – I can check back with them. When talking with him today, he said that the issue didn't come up. If the committee is going to lay this over, I can try to get in touch with John Selsing (Corporation Counsel) to get some direction. We have one legal opinion, but we can get the legal opinion from the county side and bring that back to you and you can include that in your decision.

McConnell – It seems to me that this is a sticking point that should be resolved.

Shute – The ordinance says prohibited. I don't know if a waiver is appropriate. It should have some approval attached to it if you're going to approve the plat contrary to the ordinance.

McConnell – We had two different engineering firms looking at it so there was kind of conflicting information and the one firm had four different people look at it.

Williams – Was there a lot of differences in their opinions?

McConnell – Chris deal with all of the issues at hand. I thought he had resolved everything that was an issue which is why we approved it without any conditions. I would ask to hold this over until the business meeting at the end of the month in hopes that we would hear from the Parks Department about the dedication, and the Judicial Department about the street names.

Motion by McConnell/Mueller, to hold this issue over until the January business meeting in order to hear from the Parks Committee on the park land dedication, the Judicial Law Committee on street names, and the double-fronting lots issue.

McConnell – Is there anything else that needs to come back? Al, is this possible?

Shute – Yes, both committees will have time and I will try to contact John (Selsing) and explain what we have and see if he has any input for us that I can relay back to you.

Sorenson – Mr. Chairman, just so I understand correctly, the issues are three? Is that correct?

McConnell – I believe so.

Sorenson – The number one issue is the double-front issue?

McConnell – Right.

Sorenson – Number two issue is the park land and the third issue is road names. Just so we can react to these, obviously we can go to the park meeting on Monday, the double-frontage. We've looked the ordinance, obviously since we've been here, and there is an exception. There is not, I repeat, not an absolute prohibition against double-frontage lots. It does specifically provide so that, if there is topographical or other orientation issues, you can allow them. I guess what I am saying is, as we prepare for that day, now that we know it's not an absolute prohibition, what would you suggest we think about? I mean we don't want to come back here without some kind of logical way to address the issue. That's all I'm saying. To let this issue die tonight for a legal opinion, which I'm sure John's going to read the ordinance that says there is discretion, will just put it back in your pockets saying you have discretion and we're willing to deal with discretion if you tell us what you'd like to see. The ordinance says a planting screen easement of at least 10 feet in depth shall be provided along the line

of lots abutting such a traffic artery or other disadvantageous use. Is that something you'd like to see? I mean we can do that.

Mueller – That might fill the bill.

Sorenson – We kind of need to know, Gus, so that we know what to come back with. We just can't come back with a void is all I'm trying to tell you. I'm not trying to be an obstructionist. I'm trying to find a solution to a problem. This is a huge project to lose over a little bit. So I'm looking for a solution because I really don't believe you can tell another subdivision to vacate their street. I just don't think you can do that legally. I'd like to come up with a legitimate, possible solution so that we can come back here in two or three weeks with something that works for everybody. If you tell us what you're looking for, we'll go to work on it. The other two are easy; we deal with road names and we deal with park land. We can deal with that. I understand those. I don't understand how to solve this problem unless you give me some direction. I don't know what your concerns are.

Mueller – Well, our concerns are that that hasn't been acted on yet. We don't have their final opinion.

Sorenson – Whose opinion?

Mueller – Parks and the highway people.

McConnell – Parks is dealing with the park land and Judicial is dealing with the street names. The double-fronted lots are kind of hanging in limbo. They're looking for direction. I'm not familiar with the way the ordinance reads.

Sorenson – (Sorenson then directed them to Chapter 315-30 B.)

Helmer – Just so we don't get beyond the time period allowed.

Sorenson – We're way beyond that.

Shute – No we're not. That's why we're meeting tonight.

Murawski – When was it submitted, Al?

Shute – November 6th.

Sorenson – We're not raising that issue. That would not be the way we would ever do that.

McConnell – It looks like planting screenings would be adequate.

Sorenson – That's what I was suggesting. We take an easement across. A ten-foot easement, screen it, make it a requirement, put it in the covenants and restrictions so you have to do it. That should solve the problem because you can't drive through it. We can't put the screening probably in the wetlands, but they can't drive through the wetlands then either.

Mueller – You can plant pussy willows in the wetlands.

Sorenson – If you tell us to, we will.

McConnell – I would have to be monitored. Would that be acceptable to you gentlemen to solve the problem of the double-fronting lots?

Sorenson – We need to go away here tonight with a logical solution to come back to you with. Otherwise we'll come back in two weeks and start this all over again.

McConnell – We don't need to do that.

Upon request, DeCramer read the original motion –

Motion by McConnell/Mueller, to hold this issue over until the January business meeting in order to hear from the Parks Committee on the park land dedication, the Judicial Law Committee on street names, and the double-fronting lots issue.

McConnell – I think we still need conditions one and two, but I'm not quite sure how to handle the third one.

Williams – Are there going to be many of those double-fronted lots in there?

Helmer – It will be 37, 38, and 39. The street names can be handled by judicial.

Sell – We don't care what the street names are as long as they're not similar to what we have.

Sorenson – We'll get that done.

McConnell – How can we handle the screening issue?

Shute – When we deal with things that are prohibited, it's a variance. It says prohibited and I guess you're going to have to find that there is a disadvantage of topography and orientation.

Sorenson – It's not a variance because it's permitted in the ordinance itself. A variance would mean it's prohibited and you'd have to get a variance from the ordinance that prohibits it. This ordinance specifically provides for you to put in a ten-foot easement with screening. It's part of the ordinance, Al.

Shute – With topographic conditions or orientation conditions?

Sorenson – That's what we have here. We have a problem because we have a roadway that's on the edge of this plat. That's the difference. That's the issue that's presenting itself here. So somehow we have to separate those lots from that roadway.

Shute – So don't you think the committee needs to determine that there is a topographic condition or an orientation issue?

Sorenson – I'm just saying it's not a variance.

Shute – We've typically granted variances and waivers to sections of the ordinance when the plat doesn't meet the requirements of the ordinance. If you want to create a list of waivers and put the radius waiver from #4 from 200 to 150 and allow for the double-fronting lots of 37, 38, and 39. I think we need that in the record to reflect that the committee is creating that allowance.

McConnell – So that would be a waiver?

Shute – I'm not sure what the appropriate terminology is.

Sorenson – What you're saying is the ordinance says you do not permit double-fronting lots unless you have an orientation of the lots or a topographical situation where you're faced with a lot. If you do have that situation, then you can permit a double-fronting lot if you create a ten-foot easement with appropriate screening so what you're doing is and what Al is suggesting is that you make a finding that lots 37, 38, and 39 do have this type of topographical and road orientation, therefore you're requiring this ten-foot easement with appropriate screening. I think that's all you're doing. It's a condition of the approval. That ten-foot easement has to appear on the final plat and there has to be a plan for the appropriate plantings as part of the plat. Al still has to supervise that planting. Just like a lot of these other things have to be supervised. Then you're done.

Shute – The ordinance provides, under administration and variances, where the committee finds that strict compliance with the provisions of this chapter, meaning the land division ordinance, would be unreasonably burdensome, it may vary the regulations so that substantial justice may be done provided that public interest is secured and that such variation will not have the effect of nullifying the intent and purpose of these regulations.

Sorenson – This is not a variance. You've got to get that through your head, Al.

Shute – The ordinance provides for it.

Sorenson – It is not a variance because it's a permitted activity under the ordinance.

Shute – Let's move on.

Sorenson – Well. Hey, I've been doing this for thirty years. I've been doing municipal law. I know what I'm saying.

Shute – I'm asking to move on. I'm not saying you're wrong, Steve.

Mueller – I don't think we have to amend it. We've got those three problems. We want to review those and hear from the other people who must make the jurisdiction.

Shute - So the assistance that the applicant and Steve needs is how you're going to deal with the double fronting. They're OK with the road naming and the parks. They need to know where they stand and what they need to do, if anything on the double fronting.

McConnell – It seems to me that the screening of the ten-foot screening is allows for in the ordinance without a variance. Is that correct?

Shute – I can't respond to that. I'm not sure.

McConnell – I read it once and I haven't looked at it again. I'm feeling also that we need some wording in place that Steve talked about.

Shute – The ordinance talked about topography and orientation. Try to focus your statement around those two terms.

McConnell – We have found that there is topography and the road orientation that we feel can be addressed by a ten-foot area of screening of plantings to separate the three lots that face the other road.

Helmer – Do you want John Selsing, Corporation Counsel, to determine what should be done.

McConnell – That would be good. He may concur or not concur with our finding. That would be best.

c) Committee Decision

Amended motion by McConnell/Mueller, unanimously carried on roll call (5-ayes, 0-nays) to hold this issue over until the January business meeting in order to hear from the Parks Committee on the park land dedication, the Judicial Law Committee on street names, and to obtain a legal opinion from Corporation Counsel on how to make the double-fronting lots legal. Motion carried.

Sorenson – Now we're going backwards.

McConnell – I think we're suggesting that it can be legal with the screening in place and that's what we want him to concur.

Sorenson – Well, we know it's legal. It's in the ordinance.

McConnell – We want him to check it out.

Sorenson – That's fine, but then you have to have in the record that you made a finding, which I heard you do about the orientation and the topography.

McConnell – Right.

Sorenson – That's what John has to make his decision based on.

McConnell – Exactly.

Shute – Now, this is out of sequence, you need to secure the agreement of the developer to extend the time until that next meeting.

Sorenson – As I said earlier, we'd be more than happy to agree to extend the time to the next meeting with the understanding that that's going to be done by the next meeting.

Shute – For the record, could you send me a two-sentence letter stating that?

Sorenson – Yes.

Assistant Corporation Counsel Dan Sondalle re-joined the committee for the remainder of the meeting.

PUBLIC COMMENT - None

CORRESPONDENCE - None

FUTURE DEPARTMENT/COMMITTEE ACTIVITY

a) Draft Agricultural Zoning Districts

Shute – A draft copy will be sent to the committee and discussed at the next meeting.

GENERAL COMMITTEE DISCUSSION

NEXT MEETINGS DATES

January 24, 2007 – Business Meeting – 6 p.m.

February 7, 2007 – Public Hearing – 6 p.m.

ADJOURN

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

Time: 8:11 p.m.

Recorded by Carole DeCramer
Committee Secretary

APPROVED ON:

January 24, 2007