



# Buffalo County Zoning Department

## Annual Report

2020

Michael Owecke – Zoning Administrator

Briar Golden – Zoning Specialist

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### Land Use Committee

Max Weiss, chair

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*Zoning is the most common method of land use control used by local governments. Zoning refers to the use of the public regulatory power, or police power, to specify how land may be used and developed. The intent of zoning is to balance individual property rights with the rights of the general public to ensure a healthy, safe and orderly living environment. State statutes provide authority and procedures for zoning to protect public health, safety, and general well-being.*

## **Zoning Department – Summary.**

The mission of the Zoning Department is to administer and enforce the land use and regulatory ordinances that have been adopted by Buffalo County to protect and enhance the health, safety and well-being of county residents. Regulated, planned, and orderly development succeeds in protecting and preserving the natural resources and natural features of the County as well as protecting property values and promoting economic stability.

The Zoning Department is responsible for the administration of ten individual ordinances which establish the parameters for land use and development within all unincorporated areas of the County. The principal ordinance is the Buffalo County Zoning Ordinance which establishes zoning districts and the types and density of development permitted within each district.

Wisconsin state statutes mandate that all counties are responsible for the adoption and enforcement of both Floodplain and Shoreland Zoning Ordinances. Floodplains and Shorelands are areas where development may have local as well as more far reaching influences. The State imposes an additional (unfunded) mandate that requires counties to adopt and administer a sanitary ordinance which regulates the installation of new sanitary systems and which specifies system maintenance requirements. Buffalo County reviews all soil evaluations and site plans for new sanitary systems and inspects all new Private Onsite Wastewater Treatment System (POWTS) installations and tracks the on-going maintenance of some 4,105 systems.

One of the larger responsibilities of a zoning department is to administer the county's Board of Adjustments (BOA). The BOA acts in the same manner as a court of law and has the responsibility of being the decision-making entity with regard to more controversial and higher impact land uses. The BOA conducts public hearings and issues decisions regarding; Conditional Use Permit, Variance, and Administrative Appeal Applications. The Zoning Department provides detailed staff reports evaluating all facets of development proposals aiming to define land use implications and identify potential impacts and conflicts with existing or planned development. In addition, the BOA is provided a list of suggested conditions to be placed on proposed developments which will minimize or prevent potential negative impacts. Staff guidance is intended to assure that all property owners, existing land uses, critical natural resources and natural features are identified, evaluated and protected.

## **2020 YEAR IN REVIEW**

### **UNIFORM ADDRESSING PROJECT**

The address sign replacement and road renaming project was initiated and coordinated by the Zoning and GIS Departments. The addressing project consisted of two distinct phases:

**Phase I** of the addressing project involved the installation of approximately 3,500 new address signs and posts.

**Phase II** of the project included the installation of:

- New town road signs for 19 town roads requiring renaming due to road name duplication.
- Private drive signs for 52 newly established and named private drives.
- New Addresses and signs for the 314 address changes necessitated by the first two line items above along with sending the numerous notifications associated with each address change.
- Installation of new road signs replacing the numerous town roads that were numbered instead of named, as in Town Rd. 27, (only state highways are numbered).
- Installation of new town road signs in those towns that chose to order replacement signs in response to the county's offer of the opportunity to participate in the project pricing.
- Install new address signs in the municipalities of Alma and Fountain City, those cities that accepted the county's offer to also participate in the addressing project.
- Install some 350 additional addresses signs that required review and could not therefore be included in the Phase I order and installation.

Due to unforeseen circumstances, experienced by the company contracted to complete the sign installation project, a large portion of the Phase I installation was left unfinished at the end of 2019 when completion was expected. The Zoning Department staff were able to install all Phase II address signs before winter freeze-up which was critical as these residences had their addresses changed due to road renaming or being named as a private drive.

As the new address sign installation was of high importance in assuring the health, safety and well-being of Buffalo County residents, the Zoning Department organized and supervised a county crew consisting of two seasonal highway department employees to complete the Phase I installation. The Zoning Department coordinated the numerous utility locations required to be performed by several utilities ahead of the crew as they worked thru southern sections of the county. The crew performed efficiently and accurately the task of installing some 1,360 address signs to largely bring the project to completion. A comprehensive inventory of all installs and hardware was compiled by the Zoning Specialist, Briar Golden who coordinated with the Towns to complete a final address inventory and billing statements.

## GROUNDWATER QUALITY & WELL SAMPLING PROGRAM

The Health Department, in partnership with Zoning, Land Conservation and UW Extension held numerous meetings in 2019 to determine the most beneficial approach for Buffalo County to respond to region wide developments and concerns regarding the integrity of groundwater resources and the correlation to the health of our drinking water sources. The working group concluded, with expert guidance from UW Stevens Point's Center for Watershed Science, that the best approach is to undertake a comprehensive well water sampling program in Buffalo County based on efforts and sampling programs that several other counties have undertaken or are in the process of implementing.

The sampling program will involve taking a well water sample within each 2 mile x 2 mile grid section of the County. The sampling would be conducted by two interns with Health Dept. oversight. Results would be compiled and analyzed by UW Stevens Point and presented in a professional and unbiased compilation. A Resolution that was brought to the Finance Committee seeking full funding of the project (\$43,320) with funds coming from the CAPX 2020 fund.

County Board Supervisors chose not to act on this important project that seeks to assess and establish a firm baseline understanding of the quality of our groundwater resources. Numerous potential sources of outside funding were contacted and informed of the sampling program and its importance, unfortunately the effort was of no avail. Since the resolution was brought forward both the Public Health Officer (project lead) and the County Conservationist have resigned their positions with the County and the working group has ceased meeting until position replacements are hired.

The DNR and DATCP have reported that nitrate is the most widespread groundwater contaminant in Wisconsin, and that the nitrate problem is increasing both in extent and severity. In 2018 a very limited well testing effort was undertaken in Buffalo County with ½ price well sampling kits made available to residents. Test results showed nitrate levels ranging from 0-33 ppm. Current health guidelines state that nitrate levels over 10 ppm are not safe for human consumption. The 'safe' level is being further evaluated and questioned.

A 2016 survey from the Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP) and the Wisconsin Field Office of the National Agricultural Statistics Service (NASS) sampled 400 private drinking wells in Wisconsin and found 41.7% contained a pesticide or pesticide metabolite. This was up from 33.5% in the 2007.

**The well sampling project is mentioned here with the intent of keeping the project alive and in the awareness of Buffalo County supervisors, staff, and residents. It is this very type of initiative and project that is the essence of what local government is supposed to be about, working to protect and preserve the health, safety, and well-being of residents. In conclusion, the efforts and programs to assess and assure the health and safety of county residents should not be contingent on securing outside sources of funding. This important project should be fully funded and executed in the earliest possible timeframe.**

## LAND DIVISION ORDINANCE

At the behest of the Land Use Committee and the Register of Deeds Office the Zoning Department drafted a Land Division Ordinance that would govern the subdivision or creation of 1- 4 parcels of land of 20 acres or less in size. The proposed new Ordinance requires a Certified Survey Map (CSM) to be created and submitted to the Department for review whenever the combining or dividing of property creates 1 – 4 parcels of 20 acres or less.

Currently Buffalo County lacks protocol for the formatting of survey maps or for verifying the accuracy of survey maps which are not reviewed prior to being recorded in the Register of Deeds Office. The twelve counties surrounding Buffalo County, if not all other Wisconsin counties, require a CSM for the subdivision/creation of new parcels of land.

The specific guidelines for constructing Certified Survey Maps are defined within State Statute, Section 236.34. By requiring adherence to state adopted survey map standards the County will achieve the overall goal of requiring accuracy and consistency in recorded land division documents and in the defining and incorporating new parcels into the parcel mapping GIS layer.

The Zoning Department will administer the Land Division Ordinance and will accept CSM's for review thru an application process. Upon receipt a CSM will be reviewed for accuracy by the Zoning Department, the County Surveyor, and the Register of Deeds before final approval for recording is granted.

As of the drafting of this report a final draft of the Ordinance has been approved and distributed to the 17 Towns of Buffalo County for review. A public hearing has been noticed and scheduled for the Land Use Committee to receive public comments concerning the Ordinance prior to the Committee voting to send it to the Board of Supervisors for final approval and adoption. A resolution has been drafted to establish the CSM review/application fee schedule, also to be approved by the Board. In addition, a CSM review application has been created to be used by the Department in its administration of the Ordinance.

## POWTS

74 **Sanitary Permits** were issued for the construction of new or replacement sanitary systems in 2020, just short of the six-year average of 77 permits.

**Maintenance / Enforcement.** Wis. Admin. Code requires that every **Private On-Site Wastewater Treatment System (POWTS)** be pumped/inspected by a licensed pumper a minimum of once every three years. Regular maintenance supports the proper functioning of POWTS and extends their lifespan. It is also through the State mandated inspection/pumping requirement that failing and noncompliant sanitary systems are identified. In the spring of every year the Department mails maintenance notices to

1/3 of the total POWTS owners in the County. When failing systems are identified the Department begins the process of enforcement to bring those systems into compliance through repair or replacement. Noncompliant sanitary systems in the County are a threat to groundwater resources and drinking water. The goal of the maintenance program is to ensure that all systems in the County are compliant and effectively treating all wastewater generated from sources not connected to a municipal treatment system.

2020 was an exemplary year for the maintenance program with 97% of the systems being pumped/inspected in response to the maintenance notices. In addition, 75% of those households that were delinquent from the previous year had their systems properly maintained.

**WI Fund.** In 2020 the Department assisted several households in applying for financial assistance through the WI Fund. The Fund provides grant money to qualifying low-income applicants for the replacement of POWTS determined to be failing systems. Two applicants qualified for a total of \$4,700 in financial assistance. Since its inception in 1990 the Fund has granted over \$800,000 to 296 Buffalo County households to help cover the cost of replacing failing sanitary systems. No applications were accepted for 2021 as the Legislature allowed the Fund to expire. Governor Evers has reinstated the Fund in his 2021 budget which will hopefully find legislative support.

### **A BUFFALO FIRST**

One Energy Development LLC was granted a conditional use permit to construct the first commercial solar energy system in Buffalo County. The system will consist of 9,300 solar panels located on 25 acres of land in the Town of Milton and will generate 3 megawatts of electricity, enough to power the Fountain City and Alma municipalities combined. The system is scheduled to be constructed in 2021 with the electric power generated contracted to be sold to Riverland Energy. The location of the system was found to be largely ideal due to being classified as marginal farmland that will require only minimal grading and having no conflict with Shoreland/Wetland or Floodplain zoning. An additional favorable aspect being that only two residences lie within 3,000 feet of the solar array.

### **NOTEWORTHY**

In 2020 the Zoning Department hired its fourth Zoning Specialist in the span of five years, an unfortunate and trying repetitive occurrence. A new Administrative Assistant joined the Department in June following the retirement of Julie Lindstrom who served the county for 26 years. It is also noteworthy that, due to initiative and ability, Administrative Assistant Anissa Glaus began serving the Conservation Department 1/3 time in an administrative capacity.

## PERMITTED DEVELOPMENT 2020

In 2020 a total of 310 applications for development were processed by the Zoning Department. A few of the categories for which Zoning Permits issued are itemized as follows:

<u>Category</u>	<u>2020</u>	<u>6 Year Average</u>
<b>Dwellings</b>	<b>24</b>	<b>32</b>
<b>Accessory Structures</b>	<b>37</b>	<b>31</b>
<b>Additions</b>	<b>11</b>	<b>15</b>
<b>Commercial / Ind.</b>	<b>7</b>	<b>11</b>
<b>Driveways</b>	<b>12</b>	<b>11</b>
<b>Ag Structures</b>	<b>28</b>	<b>35</b>

In the **Agricultural** structures permit category 2017 saw the near term high in ag structure permitting with 47 permits issued which included the construction of 13 poultry barns (36,000 sq. ft.). In 2018 just one poultry barn was permitted and in 2019 and 2020 no applications were received. The decline is attributed to the achievement of full capacity in the processing sector with a consequent curtailing of grower expansion.

The 2017 high in ag building activity reversed to a near term low in 2018 when only 25 total structures were permitted. The agricultural sector in 2019 and 2020 saw a modest rebound in building development.

2019 saw the largest number of **Commercial** permits issued since tracking was initiated primarily due to activity in the wireless communications sector. Bug Tussel Wireless has now completed the permitting process and construction of most of the 17 communication towers distributed throughout Buffalo County.

Bug Tussel is rapidly advancing to its end goal of establishing an extensive communications network in Buffalo County. AT&T is a primary driver of the project as it was awarded the federal contract to create 'First Net', a first responder network that will allow for inter-agency emergency response communications. The federal goal is to have the network cover 95% of rural areas. AT&T has also collocated mobile cellular communications equipment and is now live on 15 Bug Tussel towers providing commercial mobile cell coverage.

2020 saw the lowest number of new **Dwellings** permitted (24) since tracking began in 2015. The primary cause of the unexpected decline is the arrival of the corona virus which caused a temporary, or longer, interruption of development and construction plans due to the overbearing uncertainty of the situation.

## **BOARD OF ADJUSTMENTS.**

**Dale Klopp, Chair      Ron Kazmierczak      Barry Drazkowski**

The Board of Adjustments convened for four public hearings in 2020 to rule on the following petitions.

- Conditional Use Permit to allow a Ground Mounted 3-Megawatt Grid Intertie Solar Electric System, to be located in the Residential zoning district, Town of Milton, granted.
- Variance to allow a structure setback of 3 feet from a side yard property line instead of the minimum required set back of 10 feet in the Residential zoning district, Town of Belvidere, granted.
- Variance to allow a structure setback of 10 feet from a side yard property line instead of the minimum required set back of 20 feet in the ANR-40 zoning district, Town of Nelson, granted.
- Conditional Use Permit to allow a Home Based Business consisting of the seasonal retail sale of fireworks in the Residential zoning district, Town of Buffalo, granted. Permit subsequently revoked by the Zoning Department due to noncompliance.

## **ORDINANCE ENFORCEMENT**

While the Department typically initiates several enforcement actions annually, in 2020 the Department brought to conclusion three inordinately significant ordinance violations.

- I. A larger cooperative effort between Buffalo County Zoning and WI DOT regarding a property upon which some five decades of salvage material had been accumulated. While the accumulation was a violation of the Zoning Ordinance it was also a violation of a Scenic Easement, along STH 35 a National Scenic Byway (Town of Belvidere), easement held by the State of Wisconsin and administered by DOT. In the cooperative effort the Zoning Department provided enforcement and oversight of the salvage removal while DOT provided the funding.

The salvage removal effort, which encompassed material that extended onto three acres of a neighboring property owners land, was estimated to take four weeks by the contractor hired by the Department for the removal. Removal ended up taking three months due to the underestimation of the extent of material on adjoining property and prolonged heavy rain events that prevented operation on steeper slopes for several weeks. An estimated 700,000 lbs. of salvage was removed from the property which had erosion control measures installed upon completion.

- II. Another Town of Belvidere enforcement effort was initiated in response to a complaint regarding a cabin and storage shed that were constructed without permits and were in violation of Buffalo County Floodplain and Shoreland Zoning Ordinances. The cabin was constructed in the floodway of the Mississippi River within which no type of development is allowed. In addition, the cabin was located at the water's edge when the minimum structure setback to any navigable waterway is 75 feet. The landowner complied with the removal order deadline.
  
- III. The third enforcement action of significance was first initiated in 2018, again in response to a complaint filed with the Department. Investigation found that the landowner had contracted for the construction of a road of which 650 feet crossed a high-quality Floodplain Forest and Fresh Wet Meadow wetland system located adjacent to the Trempealeau River, Town of Cross. In addition, the road crossed two streams over which two concrete bridges had been constructed, both streams were determined to be navigable waters of the State.

A Notice of Noncompliance was issued to the landowner including an order for the removal of all fill material and both bridges. The road construction fill material that impacted .34 acres of wetland, within a large wetland complex, was in violation of the Shoreland Zoning Ordinance in that all wetlands within 300 feet of navigable water are protected. The bridges also were in violation in that no structures are allowed within 75 feet of any navigable water. The fill material and bridges were also in violation of the Floodplain Ordinance in that no fill material may be placed in a Zone A unstudied floodplain.

The DNR also initiated enforcement which induced the landowner to enlist the services of a legal team and an environmental consulting firm. The landowner's attorneys filed an after-the-fact wetland fill permit application with the DNR and an after-the-fact application to rezone the footprint of the road out of Buffalo County Shoreland Zoning. It was agreed by all parties that the shoreland rezone petition would not proceed until the wetland fill permit application with the State was adjudicated.

The DNR denied the wetland fill permit, the decision was appealed which culminated in a 3 ½ day trial before an administrative law judge. The Zoning Department was meaningfully involved in the trial presenting supportive evidence and discovery. The judge found that due to the availability of practicable alternatives that would not impact wetlands and due to the substantial evidence of significant adverse impact to wetland functional values the wetland permit denial was upheld.

As of the drafting of this report the landowner has 30 days to seek a judicial review of the decision. If they do, the case will go before the Trempealeau County Circuit Court and the Department of Justice will defend DNR's decision.

## PLANNING

### **Short Term Goals – Calendar Year 2021**

- Comprehensive Shoreland Zoning Ordinance Revision. With the passage of several legislative amendments; Acts 44, 167, and 391 which limit county authority, the State has directed that all counties complete a comprehensive revision of their shoreland zoning ordinance to be in compliance with Ch. NR115 and Wis. Stats. 59.692.
- Comprehensive revision of the Sanitary Ordinance.

### **Long Term Goals – 2021 – 2024**

- Comprehensive revision of the Subdivision Ordinance.
- Plan and initiate digital reporting and submittal of POWTS maintenance forms.
- Comprehensive revision of the Floodplain Ordinance.
- Develop Sediment and Erosion Control Ordinance.
- Develop Wetlands Protection Ordinance.
- Edit and reorganization of the Department's digital files and records.
- Digitize all Department paper files and records. This is anticipated to be a multi-year process with the end result being full public access via the Zoning Department webpage.

The Zoning Department ended the year **under budget by \$19,863** which was returned to the general fund. The under-budget amount resulted from department revenue being \$13,405 under the projected amount and the expenses being \$33, 268.20 less than projected.

**Revenue History:**

2015 --- \$59,170  
 2016 --- \$85,480  
 2017 --- \$77,130  
 2018 --- \$88,224  
 2019---\$120,835  
 2020 --- \$81,260

**2020 Zoning Department Budget**

<b>Revenues</b>		<b>Budgeted</b>	<b>Actual</b>	<b>Difference</b>
	County (Tax) Levy	\$135,552.00	\$135,552.00	0.00
	Zoning Permit Fees	\$30,000.00	\$24,100.00	-\$5,900.00
	Conditional Use Permit Fee	\$3,600.00	\$600.00	-\$3,000.00
	Variance Request Fee	\$1,200.00	\$2,400.00	+\$1,200.00
	Maintenance Tracking Fees	\$18,000.00	\$17,760.00	-\$240.00
	Uniform Dwelling Code Permit	\$700.00	\$525.00	-\$175.00
	Sanitary Program	\$30,000.00	\$24,950.00	-\$5050.00
	Driveway Access Permits	\$1,300.00	\$1,560.00	+\$260.00
	Uniform Numbering/Addressing Permits	\$3,900.00	\$3,550.00	-\$350.00
	Zoning Miscellaneous Revenue	0.00	0.00	0.00
	Soil & Site Evaluation Filing Fees	\$4,500.00	\$4350.00	-\$150.00
	<b>Total Revenues</b>	<b>\$228,752.00</b>	<b>\$215,347.00</b>	<b>-\$13,405.00</b>
<b>Expenditures</b>				
	Salaries	\$149,717.00	\$145,110.62	-\$4606.38
	Per Diem	\$3,000.00	\$1,770.00	-\$1,230
	Fringe Benefits	\$64,215.00	\$39,358.52	-\$24856.48
	Contractual Services	\$1,625.00	\$1,624.50	-\$.50
	Vehicle Repair & Maintenance	\$400.00	\$912.88	+512.88
	Office Supplies	\$150.00	\$149.99	-.01
	Postage	\$1,500.00	\$1,087.24	-\$412.76
	Office Stationery & Forms	\$500.00	\$328.85	-\$171.15
	Office Equipment	0.00	0.00	0.00
	Publications, Subscriptions, Books	\$200.00	\$146.63	-\$53.37
	Advertising & Printing	\$1,500.00	\$735.12	-\$64.88
	Photocopies	\$50.00	0.00	-\$50.00

	Membership Dues & Licenses	\$540.00	\$791.73	+\$251.73
	Registration Fees & Tuition	\$50.00	0.00	-\$50.00
	Employee Education & Training	\$1,160.00	\$237.20	-\$922.80
	Mileage	\$100.00	0.00	-\$100.00
	Board Mileage	\$1,100.00	\$657.73	-\$442.27
	Meals	\$100.00	\$39.83	-\$60.17
	Lodging	\$560.00	\$164.00	-\$396.00
	Other Supplies & Expense	\$100.00	0.00	-\$100.00
	Field Small Tools	\$100.00	0.00	-\$100.00
	Sign Parts & Supplies	\$1,400.00	\$1,783.96	+\$383.96
	Sanitary Permit Review – Remittance to State	\$6,500.00	\$6,400.00	-\$100.00
	<b>Total Expenses</b>	<b>\$234,567.00</b>	<b>\$201,298.80</b>	<b>-\$33,268.20</b> <b>(under budget)</b>
	<b>Ending Budget Balance</b> (balance back to general fund)			<b>\$19,863.20</b>

### **Zoning Permit Activity in 2020**

	<b># of Permits</b>	<b>Total Revenue</b>
New Single-Family Dwellings	<b>24</b>	<b>\$6,480</b>
Additions	<b>11</b>	<b>\$1,430</b>
Commercial /Industrial	<b>7</b>	<b>\$2,580</b>
Accessory Structure	<b>37</b>	<b>\$4,810</b>
Agricultural Structure – 150 – 1,000 sq. ft.	<b>6</b>	<b>\$400</b>
Agricultural Structure – 1,001 – 2,000 sq. ft.	<b>8</b>	<b>\$1,040</b>
Agricultural Structure – 2,001 – 4,000 sq. ft.	<b>6</b>	<b>\$1,620</b>
Agricultural Structure - > 4,000 sq. ft.	<b>8</b>	<b>\$4,000</b>
Land Alteration	<b>2</b>	<b>\$540</b>
RV Siting	<b>0</b>	<b>0</b>
Rezone	<b>2</b>	<b>\$1,200</b>
<b>Total</b>		<b>\$24,100</b>

### **Driveway Permits**

	<b># of Permits</b>	<b>Total Revenue</b>
Driveway Permits Issued	<b>12</b>	<b>\$1,560</b>

### **Sanitary Permits**

	# of Permits	Total Revenue
<b>State Permits</b>	<b>78</b>	<b>\$26,830</b>
<b>County Permits</b>		
Non-plumbing & Reconnect	<b>10</b>	<b>\$1,250</b>
<b>Soil &amp; Site Evaluations</b>	<b>61</b>	<b>\$4,575</b>
<b>Maintenance – Tracking Fees</b>		<b>\$17,760</b>
<b>Total</b>		<b>\$50,415</b>

**Address Numbers Issued**

	# of Permits	Total Revenue
New Address	<b>22</b>	<b>\$2,860</b>

**Unified Dwelling Code (UDC) Administrative Fee**

	# of Permits	Total Revenue
Uniform Dwelling Code Fees	<b>21</b>	<b>\$525</b>

**Conditional Use Permits**

	# of Permits	Total Revenue
Conditional Use Permits	<b>3</b>	<b>\$3,700</b>
Transfer to Law Enforcement Department – E911	<b>0</b>	<b>-\$3,100</b>
<b>Total</b>		<b>\$600</b>

**Variances**

	# of Permits	Total Revenue
Variances	<b>2</b>	<b>\$1,200</b>