

EUREKA TOWNSHIP
DAKOTA COUNTY
STATE OF MINNESOTA

Eureka Planning Commission Meeting of June 6, 2016

From

Call to Order

Chair Sauber called the meeting to order at 7:01 PM. In attendance were: Chair Nancy Sauber, Commissioner Fritz Frana, Commissioner Donovan Palmquist, Commissioner Randy Wood, and Commission Ralph Fredlund. Supervisor Cory Behrendt was present as the Town Board liaison. See attached sheet for additional persons in attendance. Deputy Clerk Cheryl Murphy recorded the minutes.

Approval of the Agenda

Chair Sauber moved to approve the agenda. Commissioner Frana seconded. Motion carried.

Resident Inquiry – **Jaren Fitzke-17721 Formosa Avenue** representing Anna and Brady Gustafson – 24835 Dodd Boulevard.

Mr. Fitzke had some questions for the Planning Commission regarding a building permit and a site plan. He requested someone from the Planning Commission look at his building permit before the next Commission meeting.

Permit Requests

Paul Ulmen – 8240 240th Street West – Building Permit Application for an Accessory Building.

Chair Sauber indicated Mr. Ulmen needed to show the Planning Commission where the well was located on the site plan. On the application Mr. Ulmen needs to check new construction. Total square footage for accessory structure would be 1408 square feet for the property. Accessory building is for personal use only.

Commissioner Frana suggested that Mr. Ulmen would need to get a shoreland letter from Dee McDaniels before the Town Board meeting on June 13, 2016.

Commissioner Frana moved to recommend approval of the Accessory Building of Paul Ulmen, at 8240 240th Street West, PID#130160026015 subject to providing a shoreland

approval from Soil and Water. Commissioner Wood seconded the motion. Motion carried unanimously.

Tacie and Niel Devasir – 8248 257th Street West – Building Permit Application for Accessory Building.

Chair Sauber stated all setbacks were adequate. For the record the accessory building would be for personal use only.

Chair Sauber moved to recommend to the Board to approve the Accessory Building for Tacie and Niel Devasir at 8248 257th Street West, PID#130210052012. Commissioner Frana seconded. Motion carried.

Ken DeMaster – 25300 Highview Avenue and Julie Larson (representing her husband Dylan) – 24510 Highview Avenue, Lakeville, Lot Split Application.

Chair Sauber stated that she and Commissioner Frana were in last week and looked at the lot split applications.

Chair Sauber moved to recommend to the Board the approval of the 2 lot splits. The first being for Dylan Larson, PID#130210026012 and PID#130210026020. The Larsons are splitting off Parcel B of .79 acres with the condition that Parcel B will be combined with the DeMaster property at the time of recording. Commissioner Frana seconded the motion. Motion carried unanimously.

Chair Sauber moved to recommend to the Board the approval of the lot split of Ken DeMaster Parcel A, consisting of 5 acres and having PIN#130210026013, splitting off Parcel B, consisting of .66 acres and Parcel C, consisting of 0.056 acres with the condition that at the time of recording they are combined with the Dylan Larson property and basically this is a land swap. Commissioner Wood seconded. Motion carried.

Town Board Liaison – Supervisor Cory Behrendt

Roundtable Draft Meeting Minutes of May 4, 2016

Commissioner Frana pointed out that on Page 3 of the May 4, 2016, Roundtable meeting, Paragraphs 3 and 4, to ask the Clerk to revisit the recording to see if it states there would be a resolution to make the changes regarding recodification and recusal.

Supervisor Behrendt listed the highlights from the May 9, 2014 Town Board Meeting as follows:

- Deputy Clerk to provide a list of permits each month to the Board, beginning with July meeting.

- Simonetts created a restrictive covenant providing a \$5,000 escrow restricting the property to one dwelling.
- Airlake – the Board is working with TKDA to identify the next steps in the process. Sherri Buss will be at the June 13, 2016, Board meeting to discuss.
- Sewer Pipe for Farmington-received a letter from them that they will go through county right-of-way.

Old Business

Dan Ames Text Amendment

Chair Sauber recused herself and Commissioner Frana took over as Acting Chair. Commissioner Frana stated the Planning Commission would continue the Public Hearing of Ordinance 6, Chapter 13, 2.H.1 Source of materials. To delete the words, “And if the recyclable concrete and recyclable asphalt originated from a road demolition or road repair project in the Township of Eureka.”

Mr. Ames stated, “ the text amendment is consistent with the Eureka Township Comprehensive Plan on pages 2-16 in that it will promote beneficial uses of our valuable aggregate resources in a manner consistent with currently permitting mining sites. It will allow for us to blend our existing aggregates with recycled materials to make a product that is more usable in the construction industry. Two-way hauling will be utilized for the recycled materials so truck traffic will not be increased.”

Mr. Ames also stated in the public hearing that noise would not increased as he will be using the same equipment and will be moving it to the east side.

Commissioner Frana stated this is a legislative decision and not a judicial decision. We can provide a rationale for what we decide. He thinks it is risky to approve it.

There was much discussion among the Planning Commission members regarding the Text Amendment.

Commissioner Wood stated that all the people that testified at the public hearing were against it mentioning everything from hazardous material, noise, road damage, property values and quality of life. Commissioner Wood also stated it does not make good sense for the Township. It is not going to benefit our Township and it really is industrial use. It is not in our Comprehensive Plan.

Commissioner Palmquist stated he doesn’t really understand the industry. I have a hard time understanding what the difference is between bringing in material from out of the Township and recycling what is on site. I know dust can be an issue. I am torn. There should be conditions put on it. I understand it is only for one pit right now, but there will be more pits who want to do it as well.

Commissioner Fredlund stated he heard all the public testimony and read the information. Commissioner Fredlund moved that we send this to the Board with the recommendation that the text amendment for Dan Ames does not get adopted for removing the limitations for out of township materials coming into the pit for crushing. Commissioner Wood seconded the motion. Motion carried.

Acting Chair Frana requested that it be put in the record the rationale as to why the Planning Commission decided not to recommend approval:

- It is inconsistent with the recommendations of the Mining Task Force and does not align with the Commercial Industrial Task Force recommendations and guidelines to policy changes as outlined in the Comprehensive Plan.
- It would increase industrial activity in an agricultural zone.
- It would open the door for current level 3 mines and future mines to request their operations have the ability to allow crushing of asphalt and concrete.
- It would be difficult to deny if allowed in pre-existing mines, which have less restrictions with hours of operation and setbacks. It would potentially open the legal challenges for being capricious and arbitrary if requested and denied by other mines.
- Given the distribution of aggregate in the Township, it would result in uncontrolled pockets of industrial use across the Township.
- At the Public Hearing all residents and neighbors who spoke or provided comments and documentation were opposed to allow the mine operation of pre-existing mines to bring in asphalt and concrete from outside the Township.
- It will maintain the balance of the needs of mines and owners and residents of the Township.
- It is inconsistent with the responsibility of lawmakers to assure that the protection of the health, safety, and welfare of the citizens.
- Per Attorney Lemmons, this is a legislative action and not a judicial one. The Town Board has wide discretion in this matter.

Commissioner Fredlund moved to add the descriptions that Commissioner Frana listed to the detail that the Planning Commission gives to the Town Board. Commissioner Wood seconded. Motion carried 4-0 as Chair Sauber recused herself for this portion of the meeting.

Solar Ordinance

Chair Sauber resumed her position as Chair and continued with the Public Hearing of May 10, 2016.

Sherri Buss presented the PowerPoint presentation at the Public Hearing, but did not go through the Ordinance draft language page-by-page.

One comment received had to do with whether it is wise of the Township to go ahead at this point with the area in between the personal use accessory structure (where it would

be for personal electrical needs at residences or farms vs. the 50 megawatt ones for the PUC which we have no control over. A reference was made regarding Wright County, which has put its moratorium back on. They had a number of residents who ended up being bought out because they were surrounded by the solar arrays. Chair Sauber stated that for now the Township could just do the personal ASES (Accessory Solar Energy Systems). The electricity could be sold back to the power company if they happen to have some excess at the end of the month. It would be an accessory use to a primary use. If the Township decides to set it up for agricultural farms, that would also be an accessory use to a primary use.

Another comment received was that with the accessory uses the Township might consider increasing the amount of kilowatts that could be put there. Looking to the future, if a house were totally electric and also wanted to power electric cars, perhaps 10 kilowatts would not be sufficient. The Planning Commission can discuss with Sherri Buss what that would mean to the draft language.

Commissioner Frana stated that from the Public Hearing comments that he heard he was for residential use, but thinks the Township should hold off on the commercial use.

Commissioner Palmquist agreed with Commissioner Frana about commercial use.

Chair Sauber felt that Jeff Otto made some very good points regarding how it would affect the Township. She stated the counties that have gone ahead have had some unforeseen consequences. Chair Sauber also felt that the Township should proceed with just the accessory use.

Commissioner Wood was also in agreement and suggested we increase the kilowatts for personal accessory use to 20 kilowatts and 20-100 kilowatts requiring a Conditional Use Permit.

Commissioner Frana made a motion to hold off on the commercial solar farms and gardens until we get more information or until the Board would like us to move forward. Commissioner Wood seconded the motion. Motion carried unanimously.

Discussion will continue on June 14, 2016, with Sherri Buss.

Chair Sauber made a motion to close the Public Hearing on the Solar Ordinance. Commissioner Fredlund seconded. Motion carried unanimously.

Fence Ordinance

The Public Hearing on the Fence Ordinance resumed. Chair Sauber stated that she thought it was discussed with the Board to not remove fences from the list of permitted structures because it is a structure and we do allow it. Rather than exempt it from the standard structure setbacks we could set a separate setback for fences.

There was much discussion among the Planning Commission members regarding the Fence Ordinance.

Chair Sauber moved to change the following in the Fence Ordinance:

- Ordinance 1, Chapter 4 -eliminate "*but shall not include fences*"
- Ordinance 3, Chapter 4, Section 5A(1) -eliminate "*and fences,*" "*and fences*", "*or fences*"
- Ordinance 3 Chapter 3, Section 4 –"*all fences are exempt from the structure setback*"
- "*Ag fences are exempt as is the case with Ag buildings*"

Commissioner Fredlund seconded. Motion carried unanimously.

Chair Sauber moved that the Public Hearing on fences be closed. Commissioner Fredlund seconded. Motion carried unanimously.

Chair Sauber asked the Planning Commission members to look at the expanded version of the Fence Ordinance from Attorney Lemmons. The Fence Ordinance will also be on the agenda for the July 5, 2016, meeting.

Comp Plan Meeting on June 14, 2016.

Chair Sauber to contact Sherri Buss to let her know what was discussed on the Solar Ordinance.

Minutes Approval

Chair Sauber suggested that the Planning Commission table all the Public Hearing Minutes until the July 5, 2016, meeting.

- May 2, 2016 – Planning Commission Meeting Minutes
Chair Sauber moved to approve the May 2, 2016, Planning Commission Meeting Minutes as amended. Commissioner Palmquist seconded the motion. Motion carried unanimously.

Chair Sauber requested that the minutes from the March 29, 2016 Special meeting with TKDA and the Met Council also go to the Town Board.

Adjourn

Commissioner Frana moved to adjourn the meeting Commissioner Fredlund seconded. Meeting adjourned at 9:15 PM.

Respectfully submitted
Cheryl Murphy
Deputy Clerk

Eureka Township

Meeting Minutes approved _____.