

**EUREKA TOWNSHIP**

**DAKOTA COUNTY**

**STATE OF MINNESOTA**

**Planning Commission Meeting of June 6, 2017**

**Call to Order**

Chair Sauber called the meeting to order at 7:00PM. Planning Commission members present were Nancy Sauber, Ralph Fredlund, Julie Larson, and Randy Wood. Bill Funk was absent. Supervisor Dan Rogers was the Town Board liaison. Township Attorney Chad Lemmons was also in attendance. See attached sheet for additional persons in attendance. Deputy Clerk Cheryl Murphy recorded the minutes.

**Approval of the Agenda**

Chair Sauber suggested adding under New Business the following:

- Remove MAT manual copies request
- Move Ag Uses and Schedule F under Application Forms.

Chair Sauber moved to approved the Agenda as amended. Vice Chair Fredlund seconded. Motion carried 4-0.

**Permit Requests**

**Kathy Maas – 234 Arnica Drive, Watertown, MN (Gloria and Erland Anderson)**  
Building Permit Application for a New Single Family Residential Home

Chair Sauber stated that the driveway will be coming off of the existing driveway. There are a couple of pieces of information that are missing on the application. One is to draw a line with an arrow from the rear of the house to the back lot line. The second is the distance from the well to the septic tank and drain field. Ms. Maas will need to initial and date the application.

Attorney Lemmons stated that the easement for the driveway is in the legal description of the warranty deed.

Chair Sauber moved to recommend approval for Kathy Mass for a single family residential home on property ID 12-02900-75-015 as amended with the additional information on setbacks. Commissioner Fredlund seconded. Motion carried unanimously.

**Adam Jakes – 25681 Ipava Avenue** – Building Permit Application for Accessory Building  
Chair Sauber commented on Mr. Jakes site plan and that the barn is still on the plan. As

Chair Sauber understands it, Mr. Jakes owns 5.64 acres so the barn cannot be used as an Ag building. The Planning Commission cannot approve the application until the barn is torn down. Also missing on the application is the location of the well and septic and the distance from the shop to the centerline of Ipava.

In the case of tearing down the barn with a \$5,000 escrow, Chair Sauber stated that Mr. Jakes could attend the Board meeting and request that he put up a \$5,000 escrow to tear down the barn at a later date. Let the record show that it is for personal storage only.

Chair Sauber moved that the Adam Jakes application for a personal storage building of 50x54 feet on property number 130190078012 be advanced to the Board with the liaison to the Board (Ralph Fredlund) explaining the Planning Commission's concern for escrow and the suggestion from the attorney about the Board dealing with the policy similar to residences for escrow that we have regarding taking down an extra building. Commissioner Fredlund seconded the motion.

Chair Sauber amended her motion that the missing information needs to be supplied. Commissioner Fredlund accepted the amendment. Motion carried 4-0.

**Paul Carlberg – 22222 Dodd Boulevard** – Sign Permit Application for Living Waters Church

Chair Sauber stated that the 40 square-foot sign is on one side only and it is not illuminated, so no CUP amendment needs to be done. The existing sign will be removed.

Commissioner Wood moved to recommend that the Town Board approve the application for a 40 square-foot sign for Living Waters Church. Commissioner Larson seconded. Motion carried unanimously.

**Alex Allen – 22447 Highview Avenue** – Building Permit Application for Accessory Building

Attorney Lemmons stated that this property is governed by a Settlement Agreement reached between the Township and Friedges Holdings, Inc. One of the paragraphs stated that *“The Operator will provide a copy of site plans describing the Facility, detailing structures, improvements, and land features and elevations, as well as a copy with relevant supporting documentation of any and all permits, inspections, or reviews to date from other authorities outside the Township. The contents of those documents are hereby incorporated as terms and conditions of the Agreement as though fully set forth herein.”*

Attorney Lemmons stated that his interpretation is that only those buildings that existed when the agreement was executed are allowed. Mr. Lemmons went on to say he is not talking about existing buildings, but buildings shown on the site plan. Only the buildings shown on the site plan are allowed.

Mr. Allen stated that Section F, Future Changes to Use or Property states, *“If changes are*

*made to the Use or Property in the future, the Operator will cooperate with the Township to determine whether a permit or environmental review is required by law and, if so, Operator will follow the process prescribed by such law(s). Operator will implement whatever monitoring, control, and mitigation measures as may be called for by applicable governmental jurisdictions to the extent they have authority under law to impose such measures.”*

Attorney Lemmons stated that Section F does not supersede the earlier language. As he and Mr. Kelly interpret it, physical buildings located on the property are governed by the paragraph that Attorney Lemmons read.

Mr. Allen stated that the paragraph says “If changes are made to the Use or Property in the future.” So if a change is requested to be made to the property in the future, the operator will cooperate with the Township.

Attorney Lemmons state that it also says earlier that a site plan was provided. A site plan showing improvements and there is no provision to amend that site plan.

Mr. Allen stated that is the provision.

Attorney Lemmons stated that is not the way he interprets it or the attorney who represented the Township in the Settlement Agreement interprets it.

Mr. Allen stated that the Settlement Agreement states that the Operator will provide a copy of site plans describing the Facility, detailing structures, improvements and land features and elevations, as well as a copy with relevant supporting documentation of any and all permits, inspections, or reviews to date from other authorities outside the Township.

Chair Sauber stated that we have to go by the Attorney’s interpretation of the Settlement Agreement.

Commissioner Larson moved to deny the building permit application for an accessory structure for Scotts Miracle-Gro since that property is controlled by the Settlement Agreement. Chair Sauber seconded.

Mr. Allen asked if the Planning Commission is saying that the Township is refusing to cooperate with the Settlement Agreement, Section F?

Chair Sauber stated she would defer that to the Attorney.

Attorney Lemmons stated that what he is saying is that you are limited to only those buildings shown on the site plan which was part of the Settlement Agreement. Uses can change, but buildings can’t. Mr. Lemmons already stated what his interpretation of the Settlement Agreement is.

Chair Sauber stated that there is a motion on the floor. All in favor. Motion carried unanimously.

**Terri Petter – 10132 235<sup>th</sup> Street West –Ag Exempt Permit Application**

Chair Sauber stated that everything on the Ag exempt form has been answered.

There were a couple of small changes to the application. First one is the date needs to be changed to 2017. Chair Sauber stated that Ms. Petter needs to draw in the building and give the dimensions and setbacks.

For the record, Commissioner Larson and Commissioner Fredlund recused themselves.

Chair Sauber moved to send on to the Board with a recommendation to approve the Ag Exempt Building Permit for Terri Petter, Property Number 1300-700-50-011.

Commissioner Wood seconded. Motion carried unanimously.

**Town Board Liaison Report – Supervisor Rogers**

- On-going cleanup of the Mahoney property was discussed. Some Board members feel it is not enough. Dakota County is getting involved with investigating the property.
- Residential Building Right for Gloria and Erland Anderson was granted.
- Approval of Lot Split Application for David and Lois Peterson.
- Building Permit Application for Adam Jakes was denied based on the Planning Commission recommendation.
- Living Waters Church sign permit application denied due to inadequate setbacks.
- It was noted that a building permit application for Jerome Phillipe was not necessary and his application fee of \$25 to be refunded.
- Motion was made to approve the Metropolitan Agricultural Preserves Restrictive Covenant for PID #130240003011 and 130240001020.
- Motion made to approve a request from Mark Parranto for dust control along 225<sup>th</sup> Street adjacent to the Applewood Orchard property.
- Motion made to table consideration of bids for limestone until the June 2017, Town Board Meeting.
- Motion made to accept the bid dated May 5, 2017, from Dakota Aggregates for Class #5 gravel.
- Motion made to accept the bid proposal dated May 8, 2017, for road grading, maintenance and snow removal services from Otte Excavating, Inc.
- Motion made to accept the bid dated May 5, 2017, from Allied Blacktop for chip coating and striping for Town Hall parking lot.
- Motion made to accept bid from Envirotech dated March 31, 2017, for dust control.
- Motion made to approve the use of Town Hall by ISD 194 for an election on

November 7, 2017, contingent on proper insurance coverage.

- Two complaints were discussed.
- Settlement Agreement for Scotts Miracle-Gro was reviewed and noted that materials must be stored on the property.
- Approval of Ordinance amending Ordinance 1, Chapter 4, 2.01 (Definition of Horticulture)
- Motion made to adopt Ordinance 2017-02 adding Ordinance 3, Chapter 5, Section 1(D) regarding commercial agriculture.
- Motion made to adopt Ordinance 2017-03, adding Ordinance 3, Chapter 4, Section 9(E) regarding sump pumps modifying it to read, "*Sump pump system must discharge sump water from the structure directly onto the ground no nearer than twenty (20) feet away from the foundation of the structure.*"
- Motion made to adopt Ordinance No. 2017-04 amending Ordinance 3, Chapter 4, Section 7(C) as follows:

*2.01C. Area-The maximum total area of all accessory buildings shall not total more than 5,000 square feet on 2 to 5.999 acres and not more than 10,000 square feet on 6 or more acres. There shall be no maximum limitation to total area for agricultural buildings and agricultural buildings shall not be considered in the total sum of accessory buildings on an individual parcel.*

- All material being stored by Scotts Miracle-Gro has been removed from the Vermillion Aggregates mining property.
- Follow up for 24565 Iceland Path fence issue. Board directed the Building Inspector to inspect the property for compliance with letter sent by Attorney Lemmons. If not in compliance, to direct Attorney Lemmons to continue with legal action.

The May 10, 2017, Roundtable meeting minutes were not discussed.

### **Old Business**

- Chair Sauber stated that on-line property records are not legal documents. The Planning Commission would like to request that a certified copy of the deed be included for building permits or applications for the property. Chair Sauber is looking for reaffirmation from the Board that they agree to do that and that it is their intention. That information will need to be communicated to the clerks and the public. If an application were turned in without the certified copy of the deed it would be considered incomplete.
- Pools and Ordinance 3 was brought up. Page 59 in Ordinance book says permit fees shall be based on valuation. There needs to be some connection in Ordinance 7. The Planning Commission currently does not have any indication of valuation of fees in Ordinance 7. Chair Sauber's recommendation would be that the fees involved in swimming pools should be concentrated in Ordinance 7, but the language in Ordinance 7 should be coordinated under Ordinance 3 – Pools. That is something

the Board could get from the Building Inspector.

### **New Business**

Chair Sauber stated that tonight the Planning Commission would review the documents relating to Building Transfer Rights application and procedures. Clerk to email the applications and forms with the changes Chair Sauber made and put in the packets for the July 2017, meeting.

### **Transfer of Building Rights Ordinance Review**

Chair Sauber stated on Page 53, Section 2A is the part the Planning Commission will cover. A residential building lot is limited to one single-family dwelling per quarter-quarter section. If an owner had a house already in a quarter-quarter section, that building native right would be used up.

Section 3C deals with clustering to set standards by which an owner of a parcel with full control of a residential building right may transfer the residential building right to other land or to another owner subject to the limitations and restrictions. It may be transferred only to other land in the Township provided all the following conditions are met:

1. The source of the residential building right is fully controlled by the property owner in the following circumstances:
  - You own the whole quarter-quarter and no residence has been built within the quarter-quarter section.
  - You have a pre-82 Lot of Record that has been verified.
  - Parcels that have previously received a residential building right transfer that is recorded with the Dakota County Recorder.
2. The quarter-quarter section, which contains a receiving parcel, is limited to a maximum of four building-eligible lots-of-record within the quarter-quarter section.
3. The clustering agreement has to be an updated agreement and has to be recorded by the landowner within 90 days of its approval by the Town Board with the Dakota County Recorder. Chair Sauber stated she feels it is up to the landowner to take it to be recorded and not the Clerk. This should be brought up to the Board.
4. The Clustering Agreement must be executed and recorded by the landowner(s) and written proof of such recording presented to the Town Clerk, before the Township will consider any application for a building permit, or before transfer of any of the lands described in the cluster agreement, whichever occurs first.
5. The landowner has to record the transfer within 90 days of its approval by the Town and written proof of such recording shall be presented by the landowner to the Town Clerk with 120 days or the transfer becomes void.

### **Application Forms – Residential Building Right Transfer Application**

Discussion with Planning Commission and Attorney Lemmons regarding changes to the Residential Building Right Transfer Application and Procedure Instructions.

Chair Sauber stated that the Planning Commission could discuss the application and

procedures thoroughly and then have the Attorney make the changes.

Discussion and possible changes for Building Right Transfer Application. Attorney Lemmons to have changes made for July 2017, Planning Commission Meeting.

**Minutes Approval**

- Minutes approval for February, 2017 Planning Commission Meeting-Tabled for July 2017, meeting
- Minutes approval for April Planning Commission Public Hearing-Tabled for July 2017, meeting
- Minutes approval for May 2017 Planning Commission Meeting-Tabled for July 2017, meeting

**Adjourn**

Chair Sauber moved to adjourn the meeting. Commissioner Wood seconded.

Meeting adjourned at 9:31 PM.

Respectfully submitted,

Cheryl Murphy  
Deputy Clerk