

EUREKA TOWNSHIP

Dakota County, State of Minnesota

MINUTES PLANNING COMMISSION MEETING October 6, 2020 - 7:00 P.M. Via teleconference

Due to the Peacetime Emergency and social distancing guidelines, the Town Board Chair has determined it is not practical or prudent to conduct an in-person meeting. Accordingly, under Minnesota Statute section 13D.021, the following meeting shall be conducted entirely through teleconferencing or other electronic means.

Call to Order and Verification of Website Posting of Public Packet

The Planning Commission Meeting was called to order at 7:02 P.M. by Chair Sauber.

Commissioners Present: Nancy Sauber (Chair)
Randy Wood (Vice Chair)
Allen Novacek (Commissioner) arrived at 7:16 pm
Bill Clancy (Commissioner)
Julie Larson (Commissioner) arrived at 7:12 pm

Others Present: Jeanie Fredlund (Deputy Clerk), Rane Solis (Town Clerk), Lu Barfknecht (Town Board Liaison), Chad Lemmons (Town Attorney), Ralph Fredlund, Mike Callahan, Gloria Belzer, John Wichmann, Andrew Giesek, Sharon Buckley, Cindy Pierce, Dan Adelman, Char Adelman, Cindy Trevis, Daryl Johnson, Clint Allen, Brian Ahern and Jody Arman-Jones.

Approval of the Agenda

Motion: Chair Sauber moved to approve the agenda as presented, seconded by Commissioner Wood. A roll call vote was taken. Nancy Sauber – *Aye*; Randy Wood – *Aye*, Bill Clancy – *Aye*.

Motion carried 3-0 with Commissioners Larson and Novacek not yet present.

Citizen Inquiry

Lora Findley & Realtors - 23930 Cedar Avenue - PID 13-01000-55-010 – Building right eligibility
John Wichmann appeared on behalf of Lora Findley to inquire as to the building right eligibility for the 3-acre parcel with PID 13-01000-55-010 owned by Barbara Bixby, now deceased. Ms. Bixby also owns the abutting parcel with PID 13-01000-54-010. Chair Sauber indicated that although both parcels appear on the 1982 map, a Lot of Record verification showing that the parcels were formed prior to April 12, 1982, and the boundaries have remained unchanged, would be necessary to establish buildability. Stub abstracts for both parcels are required for verification. Chair Sauber noted that if it were found to be a Pre-1982 Lot of Record with a building right and proper road frontage, a Conditional Use Permit would need to be obtained, which requires a public hearing.

Vice Chair Wood pointed out the presence of a building straddling the property line between the two parcels. Mr. Wichmann responded that the building would be taken down.

Mr. Wichmann then asked whether an easement to use the existing driveway would satisfy the road frontage requirement. Attorney Lemmons indicated that although Ordinance 3, Chapter 3, Section 4 states that a parcel requires at least 33 feet of frontage along a public road, it is possible that an easement could satisfy the requirement. He offered to research the issue and send an opinion to the Clerk for disbursement.

Permit Requests

Daryl and Michelle Johnson - 24932 Dodd Blvd - PID 13-01800-58-010 - Pole Shed

Chair Sauber noted that the site plan, which indicates an 8-foot separation between the proposed building and the existing barn to the east, does not meet the ordinance requirement of 10-feet between buildings. A new site plan will need to be submitted showing either a diminished building size, or placement of the building two feet further east. Mrs. Johnson indicated the VRWJPO stated that if the new building is placed within the dry pad, they should not have an issue. Chair Sauber noted that a new site plan will need to be reviewed by the watershed prior to resubmission to the Planning Commission at the November 4th meeting.

Motion: Chair Sauber moved to deny the application for a pole shed for Daryl and Michelle Johnson on PID 13-01800-58-010 due to insufficient separation between the existing and proposed structures, seconded by Commissioner Larson. A roll call vote was taken. Nancy Sauber – Aye; Randy Wood – Aye; Julie Larson – Aye; Bill Clancy – Aye; Allen Novacek – Aye. *Motion carried 5-0.*

Dan and Charlene Adelman - 23733 Hamburg Ave – PID 13-00900-58-013 - New Residence

Chair Sauber noted that the Ag building was built in 2010 and the building right transfer occurred in 2016, which allows the right to a building permit for a single-family home. The Dakota County property card for the parcel states that the parcel is currently being taxed as a residence. Attorney Lemmons noted that, because residents are allowed only one single-family home per parcel, it raises the question as to why the tax status as residential exists. Attorney Lemmons asked whether the property is currently occupied as a residence. Char Adelman responded that there is no Certificate of Occupancy for the Ag building and it is not currently being used as a residence.

Commissioner Larson pointed out that, according to Ordinance 4, Chapter 5, Section 5.00(C), all lots created after January 23, 1996, must have a minimum of two soil treatment and dispersal areas that can support systems as described in Minn. R. parts 7080.2200 through 7080.2230 or site conditions described in Minn. R. 7081.0270, subps. 3 through 7. Since the Adelman's combined the parcel with the driveway five years ago, creating a new PID for the parcel, they are required to indicate a primary and secondary septic site on the site plan. Chair Sauber noted that the garage was not indicated on the site plan, as is required. The Adelman's explained that the pole shed will be used for the garage. Chair Sauber noted that a new site plan showing a secondary septic site, as well as a current Dakota County Shoreland permit determination, should be re-submitted to the Planning Commission at the November 4th meeting.

Motion: Commissioner Larson moved to deny the new residence application for Dan and Char Adelman at this time due to no secondary septic site having been designated, seconded by Vice

Chair Wood. A roll call vote was taken. Nancy Sauber – *Aye*; Randy Wood – *Aye*, Julie Larson – *Aye*; Bill Clancy – *Aye*; Allen Novacek - *Aye*. *Motion carried 5-0*

Land Use

MN Paving and Materials (MPM) - 5100 235th St. W. - PID 13-01200-50-011 – IUP for pit expansion

Mike Callahan was present to represent the Interim Use Permit application. Chair Sauber recused herself from this discussion and Vice Chair Wood assumed the role as Chair for this agenda item.

Vice Chair Wood inquired as to who selected the company that performed the submitted Environmental Assessment Worksheet (EAW), and Commissioner Clancy inquired as to who wrote the report, as it was not stated on the EAW. Mr. Callahan indicated that Minnesota Paving & Materials selected the engineering company, Bolton & Menk, to perform the study. Vice Chair Wood noted that this conflicts with the ordinance, as the Town Board must select the engineer. Attorney Lemmons informed that according to Ordinance 6, Chapter 6, Section 1 (E), a registered engineer licensed by the State of Minnesota and qualified in this field shall review the application. The Town Board shall select the engineering firm. The engineer will submit the results of his or her findings, along with any recommendations for actions, to the Planning Commission. Vice Chair Wood questioned whether the Town Board minutes reflect their selection or approval of Bolton & Menk to perform the EAW.

Motion: Commissioner Novacek moved to table the IUP application for MPM, with the notation to verify how the Board responded to the application, seconded by Commissioner Clancy. A roll call vote was taken. Allen Novacek - *Aye*; Randy Wood – *Aye*; Julie Larson – *Aye*; Bill Clancy – *Aye*. *Motion carried 4-0.*

Chair Sauber resumed as chair for the remainder of the meeting.

Cindy Trevis requested confirmation of when the next Planning Commission meeting for the gravel pit will be held. Vice Chair Wood noted that, with the election being held on November 3rd, the Planning Commission meeting will be held on Wednesday, November 4th.

Town Board Liaison Report (*Lu Barfknecht – Liaison*)

Supervisor Barfknecht provided a summary of the September 14th and September 28th Town Board Meetings as follows:

- Josh Madson expressed frustration with the internet infrastructure in the Township. Chair Palmquist provided him with contact information at the state level to assist in obtaining fiber optic possibilities in the Township.
- Road Superintendent, Mark Henry, reported on gravel placement to date, noting that the money remaining would allow for approximately one additional mile of placement; Additional dust coating was completed where needed; Sight line issues were scheduled to be taken care of; and the practice of moving away from dry-blading to minimize degradation of the roads has been instilled.
- Bryce Otte expressed dissatisfaction with another company performing ditch mowing and questioned whether his contract allowed for this. According to the Non-Exclusivity clause in the contract, “This agreement is not exclusive between the Township and Contractor.

The Township may retain additional contractors or subcontractors to perform any or all of the services listed in this Agreement”.

- Contingent approvals were brought up and the Board agreed that the ordinances do not allow for contingencies, thus eliminating the need to create a policy.
- The Board agreed to discontinue drafting the Code of Ethics and Conduct.
- With a receipt provided by Clerk Solis, showing that the Cluster Agreement for PID 13-00200-50-011 had been filed with the County, the Board approved the Building Rights Transfer and the new residence building permit for Dan and Margret Enser.
- Approved refunding escrows for the Jaguar Communications ROW permit and Adam Jakes move out building permit.
- Approved the Treasurer’s Report submitted as of August 31, 2020, net pay, claims, receipts, and disbursements as presented. The remaining reports were tabled while Treasurer Solis locates issues left behind by the previous Treasurer and gets them to balance.
- Approved transfer of funds from the road and bridge operating fund to the appropriate escrow categories as budgeted.
- Reviewed the following complaints:
 - Dog leash ordinance – requested the Clerk send a letter citing the ordinance.
 - Fencing around a pool – building inspector to visit the property and inform the resident that their pool permit is not in compliance.
 - Operating a scrap yard – assigned Supervisors Barfknecht and Palmquist to inspect the property and report back to the Board.
 - Mining pit operating on Saturday – Supervisor Murphy to review the agreement and report back to the Board.
 - Additional complaint regarding violation of a court order in operating a flea market – awaiting judge decision.
- In-person meetings were requested. A majority of the Board felt it was premature to consider this as COVID cases are still climbing. The Board agreed to continue monitoring and abiding by the Executive Orders.
- County project manager, Jacob Chapek, will provide project status for the CSAH 86 reconstruction from CSAH 23 to trunk Highway 3 at the October 13th Town Board meeting.
- Chair Palmquist will provide an update regarding the 2021 Cooperative Weed Management Area at the October 13th Meeting.
- Clerk Solis to obtain quotes for landscaping projects at Town Hall.
- Road Superintendent job description was reviewed and approved with minor edits for Road Assistants to work with Mark Henry.
- Approved the formation of a Township Road Committee.
- Approved the CARES Act agreement with Dakota County.
- TKDA provided a feasibility report for the Eureka Estates project. The Board agreed to provide the report to the affected residents and schedule a meeting.
- Approved placement of 35 mph speed limit signs on 240th from Dodd Blvd E. to Highview.

Old Business

Chair Sauber recommended that the Commissioners review the Ordinances for needed updates for discussion at the November meeting. She noted that the Ordinance regarding wind energy needs to be updated and may require professional assistance.

New Business

None.

Minutes Approval

Minutes of the June 15, 2020, Special Planning Commission Public Hearing

Chair Sauber noted that Tim Murphy’s testimony is not included in the minutes. Deputy Clerk Fredlund offered to review her notes and request clarification from Mr. Murphy.

Motion: Chair Sauber moved to table approval of the minutes, seconded by Commissioner Larson. A roll call vote was taken. Nancy Sauber – *Aye*; Randy Wood – *Aye*; Julie Larson – *Aye*; Bill Clancy – *Aye*; Allen Novacek - *Aye*. *Motion carried 5-0.*

Minutes of the September 1, 2020, Planning Commission meeting

A few minor errors were noted.

Motion: Chair Sauber moved to approve the minutes as amended, seconded by Vice Chair Wood. A roll call vote was taken. Nancy Sauber – *Aye*; Randy Wood – *Aye*; Julie Larson – *Aye*; Bill Clancy – *Aye*; Allen Novacek - *Abstain*. *Motion carried 4-1.*

Deputy Clerk Matters

The Commissioners requested that, in the future, Deputy Clerk Fredlund obtain information regarding citizen inquiries to submit in the packets, to allow for research ahead of the meeting.

Adjournment

Chair Sauber moved to adjourn the meeting, seconded by Vice Chair Wood. Meeting adjourned at 8:10 P.M.

Respectfully submitted,

Ranee Solis, Clerk

Minutes Officially Approved by: _____ on: _____
Planning Commission Chair Date