

**Minutes of the Dodge County
PLANNING COMMISSION MEETING
February 2, 2011**

The regular meeting of the Planning Commission was called to order by John Allen at 1:00 PM on Wednesday, February 2, 2011. Present were Planning Commission members Harlan Buck, Jon Balzum, John Allen, and Walter Wyttenbach. Also present were County Commissioner Dave Erickson, Lyle Tjosaas, Dave Hanson, County Attorney, Paul Kiltinen, and Zoning Administrator, Melissa DeVetter.

Elections

Melissa DeVetter asked for nominations for Chair. A nomination was made by Harlan Buck and seconded by Walter Wyttenbach to nominate John Allen for Chair. Melissa DeVetter asked for nominations two more times. Motion by Harlan Buck seconded by Jon Balzum, to call for a vote. The vote was unanimous to elect John Allen as Chair of the Planning Commission for 2011.

Melissa DeVetter asked for nominations for Vice Chair. A nomination was made by Walter Wyttenbach and seconded by Jon Balzum to nominate Richard Wolf for Vice Chair. Melissa DeVetter asked for nominations two more times. Motion by Jon Balzum seconded by Walter Wyttenbach, to call for a vote. The vote was unanimous to elect Richard Wolf as Vice Chair of the Planning Commission for 2011.

Motion by Walter Wyttenbach, seconded by Harlan Buck, to approve the agenda and the December 2010 minutes. Motion passed unanimously.

Linda Schmidt – IUP #10-01

The first public hearing is to consider an application for an Interim Use Permit to allow a Home Occupation Business in the Agricultural District. The property is 3.75 acres located in the SE 1/4 of the SW 1/4 of the NW 1/4 of Section 16, Mantorville Township. Linda Schmidt is the applicant and Henry and Sally Schleeter are the property owners.

Linda Schmidt, Mary Timmons and Teri Barnes were present. Linda Schmidt explained their plans for a Home Occupation Business. There will be a full time resident living on the top floor of the home with a Victorian themed gift shop on the ground level. They plan to have small outdoor weddings with a little reception afterwards. They plan to have seasonal theme related events and items to sale out of small structures.

Lawren Castner, Mantorville Township had a few concerns. The first was the septic; they wanted to know if port-a-potties would work for the business.

Linda Schmidt stated that they have escrowed money to put in a septic system as soon as the weather will allow.

Lawren Castner inquired if the septic system would handle the business or would they still have to use port-a-potties.

Linda Schmidt stated they will still use port-a-potties for the outside activities and the new septic system is for the house and shop.

Lawren Castner inquired if there will be safety inspections required too.

John Allen stated that it's not part of the recommendation for other similar permits.

Linda Schmidt stated she did talk to the fire department and they recommended keeping an area open for emergency vehicles to maneuver around.

Lawren Castner stated the township was unclear if there will be a full time resident.

Linda Schmidt stated that once the septic system is installed they will have a full time resident but they can not occupy until the septic work is completed.

Lawren Castner had concerns that once harvest season starts will the dust from combining beans be an issue for wedding parties.

Linda Schmidt stated that they have a contract for the applicant to sign that address farming practices. They understand this is an Agricultural District and they don't want to interfere with the farmers.

Lawren Castner stated that Mantorville Township has approved this proposal.

Motion by Harlan Buck, seconded by Walter Wyttenbach, to close the public hearing. Motion passed unanimously.

Melissa DeVetter, Zoning Administrator stated the applicant is working with Sandy Schaefer, (Environmental Services) on the septic system.

Ms. DeVetter stated she did talk to the Sheriff Department to see if they had standards for a turn around for emergency vehicles. Ms. DeVetter was told that there was no standard in place. Ms. DeVetter also stated that MnDot did review this site and if the traffic increases they might require a turn lane. A Change of Use Permit will have to be submitted to MnDot. Also parking is being proposed in the pasture and the applicant has indicated that they would put use screening if need be.

Jon Balzum inquired what the square boxes were on the site plan.

Linda Schmidt stated that they are accessory structures that might be put on the property for selling specialty items. They understand that these will have to be permit before they do that.

Motion by Harlan Buck, seconded by Jon Balzum, to recommend approval of the Findings of Facts and Recommendations of the agenda report with the following conditions:

1. The business shall not operate at any level until a compliant sewage treatment system is installed.
2. The home occupation sign advertising the business shall not exceed nine (9) square feet and shall be set back a minimum of ten (10) feet from the right-of-way. The sign shall not be illuminated
3. Any change involving the addition of new business related structures, enlargement, intensification of the use or similar changes not specifically permitted by the IUP shall require an amended IUP to be issued.
4. All waste generated on site shall be properly disposed of.
5. The applicant shall obtain a Change of Use Permit for the access as required by MNDOT.
6. No alcoholic beverages will be allowed on the property as any part of the home occupation use.
7. The business may use a licensed caterer to serve food and beverages. No food preparation for the events or other food service shall take place on site.
8. The driveway shall be left open to allow access for emergency vehicles during normal business hours and other events.
9. The applicant shall obtain insurance to adequately address the risks that are generated from the on-site use. A copy of the proof of insurance shall be submitted to the Environmental Services Department on file with the Interim Use Permit.
10. Parking for employees and guests shall be addressed on site as determined by the Planning Commission and County Board.
11. All weddings, reunions, or other similar type of gatherings authorized by this permit will end by 10:00 p.m. during the summer season and limited to daylight hours during the winter season.
12. The business shall comply with the conditions of this permit and the Home Occupation Agreement as amended, which shall be recorded with the IUP.

The motion was passed unanimously.

Ann Severud – ZA #11-01

The second public hearing is to consider a Zoning Amendment to allow an Agricultural District to be rezoned to a Rural Residential District. The property is adjacent to the Village of Old Concord and is 5.7 acres located in the NE 1/4 of the SE 1/4 of Section 22, Concord Township. Ann Severud is the applicant and the property owner.

Phil Hanson was present to represent his sister Ann Severud. Ann intends to move back to Minnesota from Arizona. She owns property in both section 22 and 23. If she was to build in section 23; which is zoned Rural Residential it would be taking up farmland. Section 22 is zoned Agricultural but the density is taken. If allowed to build in section 22 it would be in the rolling hills / wooded area.

Dan Rabe, Concord Township inquired if the rezoning was for the 5.7 acres only.

Melissa DeVetter indicated yes.

Dan Rabe stated that there is a platted street that the applicant is in the process of having vacated. DNR has looked at this and stated that back in 2007 they believe that Lawrence Street was vacated but not recorded. The Township will be holding a meeting on March 22 pertaining to vacating the street. Concord Township will approve the rezoning but until the street is vacated the Township wants a stipulation put on this proposal that no zoning permit will be granted until the street is vacated.

Motion by Walter Wyttenbach, seconded by Harlan Buck, to close the public hearing. Motion passed unanimously.

John Allen inquired on the location of the proposed house.

Phil Hanson showed on the map the proposed location.

John Allen inquired where the street was that is being vacated.

Melissa DeVetter pointed to the street in question on the map.

Walter Wyttenbach inquired if a house was being built to the south.

Phil Hanson indicated yes.

Melissa DeVetter stated the difference is that house is within the Rural Residential District which doesn't have a density standard. Where Ms Severud wants to build is in the Agricultural District and the density is taken. That is why Ms. Severud is going through this process.

Jon Balzum inquired if this was the original farm.

Phil Hanson indicated yes.

Walter Wyttenbach inquired if vacating the street would make a hardship to build and what is the time frame was for vacating.

Dan Rabe stated the Township will be holding a meeting on March 22. The street is platted but not physical there. This might be able to be cleared up sooner if indeed it have been vacated but no recorded.

John Allen inquired if Ms. Severud was in a hurry to build.

Phil Hanson indicated no.

Walter Wyttenbach inquired if the County has approved the driveway.

Melissa DeVetter stated that Mr. Kohlnhofer, County Engineer did comment that the driveway should be as far north on Ms. Severud's property as possible to better align with the driveway on the east side of CSAH 22. He is also requiring that the field drive to the south be abandoned. Ms. Severud is in agreement with that and also agrees with the street vacation and has written a letter stating that.

Motion by Walter Wyttenbach, seconded by Harlan Buck, to recommend approval of the Findings of Facts and Recommendations of the agenda report with the following conditions: 0

1. The access drive shall be located as far north on Ms. Severud's property as possible to better align with the driveway on the east side of CSAH 22. In addition the existing field drive access located on Ms. Severud's property 550 feet to the south shall be removed to improve safety as required by the Dodge County Highway Engineer.
2. The applicant shall submit a signed agreement that states she understands and agrees that Lawrence Street will be vacated prior to the issuance of any permits for the property as required by Concord Township.

Motion passed unanimously.

Other Business

Melissa DeVetter stated the office received a request for a one year extension on William Schutz CUP #10-04 will expire March 9, 2011.

Walter Wyttenbach had a concern with flooding. In the September flood there was 7 feet of water there.

Motion by Harlan Buck, seconded by Jon Balzum to approve an extension for one year for reasons stated with the following conditions.

1. A Dodge County Zoning Permit shall be obtained before construction.
2. The Agricultural Use Covenant shall be signed and recorded in the Dodge County Recorder's Office prior to construction. A copy of the recorded document is required to be submitted to the Dodge County Environmental Services Department to file with the CUP.

3. The septic system must meet the requirements of Dodge County's sewage and wastewater treatment ordinance.
4. The permittee shall obtain a driveway permit from Milton Township. A copy of the permit or approval shall be submitted to the Dodge County Environmental Services Department to file with the CUP.
5. An address shall be obtained from the Dodge County Highway Department.
6. A Restrictive Covenant shall be signed by the current property owner and recorded in the Dodge County Recorder's office prior to transfer of the property and be available for review at the time of property transfer
7. A Compliance Inspection shall be conducted on the septic system every five years starting from the date the initial Certificate of Compliance is issued for the system. This requirement is in addition to other actions which may require a Compliance Inspection to be performed under the ordinance. If any Compliance Inspection determines the system is non-compliant the system shall be repaired or replaced to the satisfaction of the SSTS Coordinator in accordance with the Dodge County Sewage and Wastewater Treatment Ordinance No. 4 (or successor).

The vote was 2-2; the vote dies. (Ayes, Jon Balzum and Harlan Buck; nays, John Allen and Walter Wytenbach).

Chapter 6 Nonconformities (continued)

Melissa DeVetter gave a brief summary of the Chapter being proposed. A question on nonconformities was addressed to the County Attorney on whether the provisions addressing nonconformities in Statute applied to existing dwelling that is currently did not meet the 1000' feedlot setback. The County Attorney confirmed that based on the State Statute, they would need a variance to expand.

Paul Kiltinen, County Attorney was present and explained what the State Statute says on conforming uses or structures become nonconforming because of some kind of government action. When the reciprocal setback for feedlots was created it also created nonconforming dwellings. Which mean that they can exist the way they stand but they would have to go through a variance process if they wish to add on to the dwelling.

After further discussion the Planning Commission directed staff to come up with language for an alternative procedure dealing with dwelling within the 1000' setback.

Melissa DeVetter requested a language change to section 6.4E.1 to read Structure is repaired within 12 months and E.II reads Structure is not repaired within 12 months.

Motion by Harlan Buck, seconded by Jon Balzum to approve the Amendment as presented. The motion passed unanimously.

Chapter 15 Floodplain Overlay District (continued)

Melissa DeVetter stated at the last meeting the Planning Commission recommended not to approve this Chapter for the following reasons.

1. Language is too prohibited. 2. Not having seen the new Floodplain Maps. 3. Not convinced that FEMA recommendations are not adequate. The County Board has requested that the Planning Commission to revisit this Chapter and has asked Matt Maas, Emergency Management Director speak to the Planning Commission.

Matt Maas stated that the cost to the county was broken down in two different sections; whether the damage was for actual home/dwelling or public infrastructure. If we combine those two numbers together we are looking at 1.5 million dollars in damages that the county sustained in this last flood. This cost accrues immediately and we have to deal with these costs the best we can. We then can apply for a FEMA declaration but it is not guaranteed that we will receive it. If approved then we can recoup some of the funding through FEMA. This last flood individual homeowners were not approved, but we did get public infrastructure. So for the homeowners without insurance it was a complete lost to them.

Melissa DeVetter stated the County had 76 structures that were damaged with 5 as major/substantial damage. The total value of those structures was \$334,000.

Matt Maas stated that this spring they are predicting the flooding to be substantial.

Melissa DeVetter stated that there is a process in place now on how an individual who is mapped in the floodplain could get a Letter of Map Amendment, which won't formally remove the structure from the Floodplain until the County Board adopts it. At that point, the Floodplain regulations would not apply.

Motion by Harlan Buck, seconded by Jon Balzum to approve the Amendment as presented. The motion passed unanimously

John Allen inquired where the county was on for the bio-filter for Mr. Benedix.

Melissa DeVetter stated that Mr. Benedix will be submitting an application asking for an amendment to his CUP to remove the bio-filter requirement from his permit.

Adjourn

Motion by Walter Wyttenbach, seconded by Jon Balzum to adjourn. Motion passed unanimously. The meeting was adjourned at 2:20 P.M.