

Minutes of the Clay Township Planning Commission held on Wednesday, June 13, 2001 at 7:30 p.m. in the Clay Township Board Room, 4710 Pte. Tremble Road, Clay Township, Michigan.

- 1 . Meeting called to order by Chairperson Mark Getman at 7:30 p.m.
2. R/C: Mark Getman, Chairman, John Makuch, Secretary, Chuck Michel, Pat Sharrow, Diana Decker, Sandra O'Conner, Louse Cooper, Dorothy DeBoyer.  
Absent: Don Kent (excused). Also present was Wade-Trim Consultant Linda Anderson.
3. **Communications:** None.
4. **Approval of the May 9 and May 16. 2001 Minutes:**

Moved by DeBoyer, supported by Cooper, **MOTION CARRIED**, to approve the regular Planning Commission meeting of May 9, 2001 and the Special Planning Commission meeting of May 16, 2001 as submitted. AYES: All. NAYS: None. ABSENT: Don Kent (excused).

Chairman Getman asked Agenda be amended per a letter received from Mr. Horvath's Lawyer requesting postponement of the Special Approval Land Use and Site plan consideration for Donna Horvath-Silent Acres Farms, 2040 Golf Course Road; Chairman Getman noted cannot postpone the public hearing since it has been advertised.

Moved by Sharrow, supported by Michel, **MOTION CARRIED**, to amend Item #7 for the June 13, 2001 Agenda to remove Site Plan Consideration for Donna Horvath-Silent Acres Farms, 2040 Golf Course Road and reschedule to June 27, 2001 . AYES: All. NAYS: None. ABSENT: Don Kent (excused).

**5. SITE PLAN CONSIDERATION: JOSEPH FOURNIER - 4181 PTE. TREMBLE RD.**

Chairman Getman: Members should have copy of Planner's review; Linda Andersen recommending "B" enlargement; per Committee Review meeting has to go to ZBA for nonconforming due to the setbacks.

Applicant: Submitted two plans with different parking spaces indicated.

Pat Sharrow: Proceed to ZBA to declare a nonconforming "A" use that would be expanded and also ask for variances to the addition, too close to property lines without setback.

Chuck Michel: Need to make some corrections to those parking spaces according to Planner.

Motion by Michel, supported by Sharrow to postpone site plan consideration for 41 81 Pte. Tremble Road until Applicant Joseph Fournier can bring in a corrected plan indicating the building setback dimensions and also the parking lot spaces are up to code 9-1/2' x 20'.

Discussion: Chairman Getman suggested include in motion the petitioner proceed to the Zoning Board Of Appeals for variances on side yard setbacks and nonconforming use from "A".

Amended motion to include petitioner to proceed to the Zoning Board of Appeals for variances on side yard setbacks and nonconforming use from Class "A".

VOTE ON THE AMENDED MOTION: AYES: All. NAYS: None. ABSENT: Kent  
**MOTION CARRIED.**

## **PLANNING COMMISSION MEETING - JUNE 13, 2001**

### **Page 2**

Applicant Jody Fournier: Questioned if other proposal with more parking spaces can be considered, one plan has 15 spaces, the other is for 20 spaces.

Chairman Getman: Yes, this one has more deficiencies.

Applicant Jody Fournier: Parking clear out to the side now, this plan has 15' landscape setback and will have some parking spaces that are altered a little bit, surrounding businesses don't have a 15' greenbelt, not putting in a new business, operating for years.

Mark Getman: Those businesses built prior to the Zoning Ordinance, any improvements would have to abide by the new Ordinance.

Applicant: Less than 20 parking spaces is going to cause problems.

John Makuch: Allowed to bring the variance on the parking up at the ZBA.

Pat Sharrow: Hardship ZBA considers is not your hardship, it is what is different about your property from other businesses that makes you feel the Ordinance causes a hardship on you?

### **6. RE-ZONING 89-54 FROM COMMERCIAL (C-1) TO BUSINESS (B-2) FOR 7223 DYKE ROAD - PUBLIC HEARING:**

Chairman Getman: Planning Commission several weeks ago made a motion to re-zone the property at the corner of Anchor Bay Drive and M-29 from Commercial to Business.

Open the public hearing for the re-zoning of 7223 Dyke Road from Commercial (C-1) to Business (B-2):

Anyone in favor of the re-zoning? None.

Anyone opposed to the re-zoning? None.

Close the public hearing.

Moved by Makuch, supported by Michel, to recommend to the Township Board approval of the Re-Zoning 89-54 for 7223 Dyke Road from Commercial (C-1) to Business (B-2). AYES: All. NAYS: None. ABSENT: Kent. **MOTION CARRIED.**

### **7. PUBLIC HEARING: DONNA HORVATH-SILENT ACRES FARMS 2040 GOLF COURSE ROAD FOR AN APPLICATION FOR A SPECIAL APPROVAL LAND USE AND SOIL REMOVAL PERMIT.**

OPEN THE PUBLIC HEARING FOR COMMENTS FOR OR AGAINST THE APPLICATION SUBMITTED BY DONNA HORVATH-SILENT ACRES FARMS, 2040 GOLF COURSE ROAD FOR A SPECIAL APPROVAL LAND USE AND SOIL REMOVAL PERMIT.

Chairman Getman: Agenda amended to only have the public hearing, action will be done at the next meeting June 27, 2001.

Frank Hirsh, Attorney representing the Horvath's: Requested Planning Commission to seek withdrawal of the motion made earlier to postpone a decision tonight regarding the S.A.L.U. and site plan consideration for Donna Horvath-Silent Acres Farms, 2040 Golf Course Road.

Chairman Getman: Motion was made, you had made the request to postpone, cited reasons

## PLANNING COMMISSION MEETING - JUNE 13, 2001

### Page 3

Frank Hirsh: The Planning Commission is referring a decision on the matter tonight to June 27<sup>th</sup> and only conducting a public hearing now?

Chairman Getman: Correct, notices were sent to those within 500' and published in the newspaper and are here for that purpose.

Frank Hirsh: Horvath's had a special approval land use for four (4) years, some question how that expired and if this application before the Planning Commission is a request for a new application or an extension; requesting the prior use that was approved to be continued for the property involved, submitted the application under the Ordinance; steps followed through the proper procedure, now at Planning Commission level for their consideration of approval. The use of the land they purpose is the continued use of their special land use is exactly what they did for the prior four years, very non-intensive use, only difference in the property between 1996 and now have dug a 200' x 250' pond, removed some of the material from the property and spread most of it on the land property to raise the elevation of the buildings, a non-intensive soil removal operation, requesting this application be continued and be reviewed on an annual basis by the Township Board.

Chairman Getman: Letter from Dale Raska, 2900 Cottage Lane, Harsens Island for the record, in favor of the S.A.L.U. application.

Anyone in favor of the request:

Pat Marlow, 1803 Columbine, Harsens Island: Have no problem with this operation.

Jack Sears, 3090 Cottage Lane: In favor.

Linda Morrison, 2472 Cottage Lane: No problem, in favor.

Bob Peterson, 2800 Cottage Lane: Asked if the scale of work was going to increase?

Attorney Frank Hirsh: No would stay the same, possibility may have a little more activity to assist in the water line project.

Dale Raska, 2900 Cottage Lane: Live directly across where the location is, the last four years all the rules and regulations were followed, have no problem with it continuing.

Charlie Wagner, 2690 Cottage Lane: No problem with it.

Pat Sharrow: Questioned which pit these people are referring to, the one by the barn on Golf Course Road or the pit on Cottage Lane, which was never granted a permit.

Anyone in opposition:

Edward Marchwinski, 2776 Cottage Lane: Two pits there now, if you give him a permit eventually stagnant water, opposed to the pit.

Larry Rix, 2770 Cottage Lane: Under the impression he had a permit to dig by the barn area and not one for the pond on Cottage Lane, if he is doing it without a permit, what is going to stop him from doing more.

Linda Rix, 2770 Cottage Lane: Application refers to the entire property, opposed.

Cindy Kirkpatrick, Wright Drive: Questioned if the land is joined or separate lot?

Chairman Getman: All under one application.

John Horvath: Township requested the property be split because of commercial use; waterline situation came up combined the property again, no reason to split it.

## PLANNING COMMISSION MEETING - JUNE 13, 2001

### Page 4

Cindy Kirkpatrick: Inquiry as to what is allowed on a 5-acre parcel when digging out soil.  
Chairman Getman: Permits required to haul dirt, cannot stockpile.

Harry Yax, 2538 Cottage Lane: Comment regarding dirt available for the waterline, not going to make it cheaper for us, already have a contract and knew were on an Island when took the job.

Jon Manos, 2280 Golf Course Road: Remarked Horvath property was split into 3 parcels, combined for water assessment only, independent parcels of land, if sold, would require Planning Commission approval. Comments re: opposition to the S.A.L.U. for 2040 Golf Course Road. S.A.L.U. granted a couple adm. Ago for a specific purpose and time on a limited piece of land, since permit has expired, attempt to renew the S.A.L.U., legal opinion was site had no status and reverted back and no longer could be considered as a soil removal operation, complaints about hauling since the permit no longer exists, continuation of violations from the property, records in the Township, inspections were denied, S.A.L.U. rules were not observed and hauling anyway, Police have pictures and reports of the hauling on that side of the land; Zoning Ord. amendment states a limitation of two mile radius of an existing pit; soil from that piece of property a very limited site, agricultural exemption for farm purposes created to be a farm per a consent judgement, great portion of the acreage is a heavy wooded area, numerous buildings on the property with dual dwellings on the property in a commercial area; remarked petition denied several years ago stating petitioner was not within the required footage area of the pond; reiterated the Cottage Lane site is not in compliance, not enough room, burden the residents on Cottage Lane with truck traffic, ZBA currently working on an interpretation of the Zoning Ord. Amendment re: pits cannot be within a two mile radius of each other, not a good pace for a pit to be used for commercial purposes.

Attorney Frank Hirsh: No comment, satisfied with the public hearing. Mrs. Rix: Questioned does applicant's S.A.L.U. application include the entire property? Chairman Getman: Per Planning Consultant's letter, applicant has to define exactly location, size, depth of the pond when submitting application to Planning Commission, when we know, it will be public, don't know at this time.

No other public comments:

Chairman Getman closed the public hearing.

Pat Sharrow: Referred to minutes from ZBA meeting in May or June, 1996 states a petitioner asked for a re-hearing on S.A.L.U. for Horvath's pit approved for Golf Course Road, petitioner was denied hearing since the digging and haul route would not be Cottage Lane and were not within the required distance from the pond; important Planning Commission members have a copy of the min. and any statements made available from the Twp. Attorney which was Gary Fletcher at the time.

Chairman Getman: Planning Commission members should all have a copy of the April 24, 1996 minutes. Don't want to get into too much discussion on this issue, will be in the review when Planning Commission meets on June 27<sup>th</sup>.

**PLANNING COMMISSION MEETING - JUNE  
13, 2001 Page 5**

**8. CHAIRMAN'S REPORT**

Update concerning M-29 Sunoco Gas Station/Taco Bell: Members supplied with a letter from MOOT Eng. regarding traffic study by Wade-Trim, agree passing flare on east side of M-29 be constructed, will require an enclosed drainage system installed. Met with new owners of the Station, very cooperative willing to work with the Commission Board, a very productive meeting.

**9. PLANNING CONSULTANT'S REPORT:** None.

**10. PLANNING COMMISSION COMMENT:** None.

**11. PUBLIC COMMENT:** None.

**12. ADJOURNMENT**

Moved by Michel, supported by Cooper, **MOTION CARRIED**, to adjourn the meeting at 8:30 p.m. AYES: All. NAYS: None. ABSENT: Kent.

Valerie J. Kulba  
Recording Secretary

**8. Adjournment:**

Valerie J. Kulba  
Recording Secretary