

MINUTES
CLAY COUNTY PLANNING COMMISSION MINUTES
7:00 TUESDAY, FEBRUARY 15, 2022
THIRD FLOOR BOARD ROOM, CLAY COUNTY COURTHOUSE

Members Present: Bill Davis, Steve Mortensen, Steve Lindaas, Joel Hildebrandt, Brad Eldred, Curt Stubstad, Jenny Mongeau

Members Absent: Andrea Koczur, Laura Johnson, Ezra Baer, Kurt Skjerven

Others Present: Matt Jacobson, Erika Franck, Brian Melton, Rita Rueckert, Justin Sorum (by phone), Sheree Eilertson, Jarrett Robertsdaahl, Mary Colson, Shauna Dubuque, Chad Dubuque, Chelsy Klava, Matt Aukland, Jerry Waller, Bob Iverson, Kirk Watt

ROLL CALL: Roll call was taken, and the meeting was called to order at 7:00 PM

APPROVAL OF AGENDA:

On motion by Steve Lindaas, seconded by Joel Hildebrandt, and unanimously carried, the Agenda was approved.

APPROVAL OF MINUTES FROM JANUARY 25, 2022 MEETING:

On motion by Joel Hildebrandt, seconded by Steve Lindaas, and unanimously carried, the Planning Commission approved the January 25, 2022 Minutes.

CITIZENS TO BE HEARD:

There were no citizens wanting to speak on any items not on the Agenda.

PUBLIC HEARINGS:

MATTHEW AUKLAND – REQUEST FOR INTERIM USE PERMIT

The applicant is seeking approval for an after-the-fact interim use home occupation application for a truck parking and storage business at 3052 80th St. N, Glyndon, MN, 56547, parcel 20.028.3003, in part of the NW ¼ of the SW ¼ of Section 28, Township 140 North, Range 47 West, Moland Township.

On motion by Steve Lindaas, seconded by Curt Stubstad, and unanimously carried, the Planning Commission opened the public hearing.

Matt Jacobson, Planning Director, advised that this is a request for a home occupation for a trucking business. This type of activity is allowed in the Agricultural General (AG) Zoning District. There is one residential structure and one outbuilding located on this site. The business currently has 3 employees in addition to the owner.

The trucks have weekly jobs and leave the premises on Sunday afternoons and return on Friday afternoons.

Trucks do arrive monthly for servicing. Owner Aukland purchased the property in August 2020 was not aware there would be a permit required for his business at this location.

The business is running out of a shop built in 1987 with a total square footage of about 5600 sq ft. The impervious surface for the lot is approximately 1.4 acres, or 19% of lot surface. The nearest residence is approximately 260 feet to the south along 80th Street North. The parcel is buffered by rows of trees. Daily truck traffic it not anticipated to be substantially increased. The owner does dust control on the public roadway and the road/area leading into the shop.

There has been a meeting with the township regarding this request in January which focused on the impact to the roads. There was some damage incurred by the roads after extensive work was done on the property and repairs were made. Moland Township partners with the County for maintenance. They are concerned about the chance for increase to damage and maintenance to the roads. The County Operator on this road has noticed increased impact to the roadways because of increased truck traffic. The Highway Department has reviewed this and their recommendations are:

- The increased truck traffic may cause a need for increased roadway maintenance and/or a need for more frequent addition of gravel surfacing;
- This is a Moland Township roadway so the potential of these demands should be discussed and agreed upon by the Applicant and Moland Township Supervisors.
- If the Applicant continues to apply chloride to the Township road, this will also help and may deter some of the impacts from the truck traffic.

Director Jacobson reviewed the Home Occupation Standards which includes:

- Cannot be located on lots within platted subdivisions
- Planning Department shall view and inspect Conditional Home Occupation uses at least once every five years for compliance with conditions
- They can be in an outbuilding but that building has to be limited to 10,000 sq ft in total of all structures used
- Minimum lot size for Home Occupation is a little less than 2 acres
- Employees shall be limited to immediate family members or maximum of 5 employees

Owner Applicant Matt Aukland advised he was not aware he was in need of a permit and apologized for that oversight. Last spring he had trouble getting his trucks and trailers in and out of the property at time of thaw. He got quotes for installing concrete but core samples taken showed that the soils were wet 5 feet down and so clay fill had to be brought in. At this time there were road restrictions in place so all material was kept onsite. Once road restrictions were removed there were 300 loads of gravel transported in that did damage to the road. The onsite surface work was done in 4 phases, with the 3 largest completed in 2021 and the 4th one to be completed in 2022. The clay material brought in was from an area pit; the materials removed were brought to a neighbor who used it for elevating a building. He has one employee who works onsite, the remainder of his employees are over-the-road drivers and are not on site. He has rented another location for storage of loaded trailers to prevent additional damage to the road or his property. He advised he had applied dust control Joel Hildebrandt asked the road restrictions; it is a 5-ton restriction year-around.

Jerry Waller, 8233 31st Ave N, Glyndon he resides just east of the Applicant. He stated that this parcel has been a farmstead with heavy equipment and trucks using the road. There have been times over the years that

this road has required repairs. Mr. Waller stated that the Applicant keeps his residence looking He emphasized that the County spends a lot of money encouraging small businesses and denying this Applicant's request would be counter-productive to those development measures. He asked that the Board look favorably upon the request.

Chad Dubuque resides at 8216 31st Ave N, Glyndon. He asked what the duration of the Permit would be and what the ramifications would be if the owner sold the property. He also asked if there were any plans to widen 31st Avenue North. Director Jacobson clarified that the permit goes with the owner and would expire at the time the owner sells or leaves. He was advised that this road is a Township road and he was referred to the Township to inquire of future expansion.

Staff recommends the following minimum conditions:

1. Home Occupation shall comply with the Clay County Development Code conditional Home Occupation Standards;
2. Permit ceases upon parcel ownership change;
3. Owner shall apply dust control methods such as water or chloride on roads adjacent to property as necessary;
4. And, any other Conditions the Planning Commission deems necessary.

On motion by Jenny Mongeau, seconded by Steve Lindaas, and unanimously carried, the Planning Commission closed the public hearing.

The Findings of Fact and Order were addressed and discussed by the Planning Commissioners as they pertain to the requested permit. All items can be addressed with conditions.

On motion by Joel Hildebrandt, seconded by Jenny Mongeau, and unanimously carried, the Planning Commission *GRANTED* the Interim Use Home Occupation Permit with the following conditions:

1. Home Occupation shall comply with the Clay County Development Code Conditional Home Occupation Standards;
2. Permit ceases upon parcel ownership change;
3. Owner shall apply dust control methods such as water or chloride on roads adjacent to the property as necessary and in coordination with the County to maximize the affects;
4. Any other Conditions the Planning Commission deems necessary.

AGGREGATE INDUSTRIES – REQUEST FOR AMENDMENT TO INTERIM USE PERMIT

The applicant is seeking approval of an amendment to an Interim Use Permit to continue aggregate mining operations. The project area is four parcels: 17.013.1102, 17.013.1000, 17.013.1500, 17.013.1400, located in the NE ¼ of Section 13, Township 141N, Range 45W, Keene Twp.

On motion by Curt Stubstad, seconded by Steve Mortensen, and unanimously carried, the Planning Commission opened the public hearing.

Matt Jacobson, Planning Director, reviewed the Policy Considerations from the Comprehensive Plan:

Land Use Goal #2: Support the long-term protection of agriculture in the County.

- Policy #1: Recognize and support the agricultural character of the County in all planning efforts;

Land Use Goal #5: Plan land uses and implement standards to minimize land use conflicts.

- Policy #1: Prepare and adopt a land use plan that designates land use areas to ensure desirable land use patterns and minimize conflicts.
- Policy #2: Require adequate transitions between different land uses through appropriate land use planning and zoning standards.
- Policy #3: Require adequate buffering and landscaping for new mining operations when adjacent to existing residential areas as well as when an existing operation expands or is substantially modified and would negatively impact existing land uses in the surrounding area.
- Policy #4: Require phased end-use reclamation plans as a condition for a gravel-mining permit so that areas are reclaimed as they are done being mined.

Natural Resources Goal #1: Identify, protect and preserve the County's high quality natural, scenic, cultural and open space areas.

The subject property is zoned Agricultural General (AG) with Resource Protection-Aggregate (RP-Agg) and Resource Protection-Biological (RP-Bio) overlay districts. This use is allowed under AG and RP-Agg. There is a portion of the area that is Resource Protection-Biological (RP-Bio) and no mining is planned within that area. The subject areas total about 327 acres.

Applicant has recently acquired the residential property – Parcel 17.013.1102 – and they are requesting the Interim Use Permit be updated to include this legal description. Total acreage added would be 2.35 acres, with approximately .88 acres being mineable. The additional 2 acres for mining come from the required residential setback on the adjacent parcel once the residence is removed or a Variance to the 500-foot residential setback is received.

Progressive mapping showed the mining over the years and how the pit has increased and moved. The Applicant had a Conditional Use Permit hearing in 2007 for mining. Then in 2012, the Applicant there was a request made by the Applicant for an Interim use Permit and to change the hours to a 24-hour operation. Adjacent landowners express great concern regarding the 24-hour operations request. As a compromise, the Planning Commission approved set hours and removed the 24-hour operations language from the permits. A map was provided showing the hours of operation for pits on all the neighboring parcels. In 2012, the Applicant proposed to conduct mining April 1 through mid-November, 7 days a week. They received a permit for mining 5AM to 9PM Monday through Friday and 6AM-6PM on Saturday. There are 9 residences within one mile of the mine site, which includes a residence owned by the Applicant which is currently being rented back to the previous owners. The mining would need to be setback 100 feet from the RP-Bio zoning.

There is some potential for mining to take place below the water surface. Minnesota Hydrogeologic Atlas estimates the water-table elevation depth at 0-40' in the mining area. The County Engineer does not have any issues with mining below the ground water table. Staff recommends removal of Condition #12 to avoid any future confusion on this matter.

This mine had an EAW done and is believed this was completed prior to their first application in 2007. At that time the DNR had concerns about mining into the water and that there would be water pumped out of the mine area and would adversely impact the amount of subsurface water currently flowing to the downstream wetland complex to the northwest. There will be no dewatering to occur onsite and water will not be discharged from the site so downstream wetland complexes should not be adversely affected.

The traffic at that time was anticipated to be approximately 100 trips per day, surging as high as 155 trips per day, and trucks would use County Road 33 and head south to County Road 26. Also, trucks were to be scaled before they leave the pit site.

At this time the County Engineer has reviewed the request and recommends that the Applicant shall have equipment available to remove any material tracking out on County Road 33, and that there be no additional access added.

The site will be mined in phases and a bond is requested at \$2,000 per acre. Reclamation will be that the seeding be a mixture acceptable for grazing.

The Applicant is seeking the following Amendments to the 2012 IUP:

- Include the updated legal description to include the recently acquired adjacent residential property
- Requests 3 acres be added to the total mining acreage (Conditions 5 & 6)
- Request changing the hours of operation for noise-producing operations such as crushing/screening/washing from 8:00 AM – 8:00 PM to 7:00 AM – 7:00 PM Monday through Friday
- Adding language: “If the operator needs to operate beyond stated days/hours, they shall first notify the Planning Office with the reason and length of time requested, so the extended hours can be approved and affected property owners may be notified”, due to the mining season being weather dependent.

Additionally, there was Condition #12 on the original permit which included working with the County Engineer regarding mining below the ground water table. The Engineer has no problem with mining below ground water table as there is no dewatering taking place onsite. Staff recommends modification of Condition #12 to include that no de-watering is to take place onsite.

Sheree Eilertson, and Jared Robertsdahl represented Aggregate Industries. Ms. Eilertson advised the site has been operating since the 1980s and Aggregate acquired Kost Materials in 1994 . She states that the 7AM to 7PM hours work better with their operations. This site is run intermittently. Mr. Robertsdahl advised that they do handle any spillage as it occurs. He stated that the last time they operated at this site was 2017.

Mary Colson is a neighbor who shared her concerns. She states there are 6 pits within about 1-1/2 miles from their residence, where they have resided since the 1990s. She addressed the cumulative effect of living within a mining area. She addressed the current operation hours of 5AM-9PM Monday through Friday and 6AM-6PM Saturday. She feels that the Monday through Friday hours of 5AM is much too early, and that 9PM is much too late. They are acquainted with the noises and activities of agriculture and mining. She asks that the Monday through Friday hours are reduced to 7AM to 7PM or 6AM to 6PM. She also asked that the hours of operation be more in line with two of the other pits in the area as she feels 5:00 AM is too early and 9:00 PM is very late. She emphasized wanting to see criteria added for what would prompt the need for extended hours, and that these needs are a necessity and not just to boost the bottom line at the end of a quarter.

On motion by Curt Stubstad, seconded by Steve Mortensen, and unanimously carried, the Planning Commission closed the public hearing.

The Findings of Fact and Order were addressed and discussed by the Planning Commissioners as they pertain to the requested permit. All items can be addressed with conditions.

Discussion regarding Condition #10 surrounded what constitutes an emergency and that it is not for the company to meet deadlines. The “emergency” would be a County/community emergency and not an urgency on the part of the operator. There was discussion regarding making the hours more compatible with other pits in the area and 6AM to 7PM was considered as an option. There was much review and discussion about the history of the hours of operation.

On motion by Joel Hildebrandt, seconded by Jenny Mongeau, and unanimously carried, the Planning Commission *GRANTED* the request for amending the Interim Use, and to include the following Conditions:

1. Operate within provisions of the Clay County Land Development Ordinance.
2. Operator shall control dust and provide necessary maintenance on any/all gravel haul roads.
3. Operator shall provide proof of NPDES/SDS, Storm Water Management, and Air Quality Permits, as required, to the Planning Office and shall be in compliance with any and all other regulating agencies prior to starting mining operations.
4. Operator shall contact Clay SWCD and have wetland evaluation completed before any mining commences. Must comply with all provisions of Wetlands Conservation Act.
5. Propose 124 acres be approved for mining. If more acres are proposed to be opened in the future, a new or amended IUP would be required.
6. Require applicant to post a reclamation bond as per the Land Development Ordinance requirements (124 acres at \$2,000 per acre)
7. Require applicant to reclaim mined out areas as mining activities progress. Require areas to be seeded to native prairie grasses or other FSA/NRCS specification upon reclamation.
8. Applicant shall provide parking, screening, lighting, drainage, and portable sewer facilities consistent with County regulations as determined by the Planning Department and County Health Department.
9. Operator shall present a mine plan to Planning Office indicating area to be mined, current topography, final topography, phases of mining operation, Hazmat storage/sanitary facilities prior to commencing any expanded operations at the site.
10. Hours of operation shall be limited to 5:00 a.m. to 7:00 p.m. Monday through Friday, and 5:00 a.m to 6:00 p.m. on Saturdays. Hours shall apply to any mining activity onsite including existing operations. Noise producing operations like crushing/screening/washing are limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday. No noise producing operations are allowed on weekends. Any lighting used shall be directed on-site and not create a nuisance for area residences. If the operator needs to operate beyond stated days/hours, they shall first notify the Planning Office with the reason and length of time requested, so the extended hours can be approved and affected property owners may be notified.
11. This permit shall terminate on December 31, 2029.
12. No de-watering is to occur on-site.
13. The Operator shall be responsible to have equipment available to remove any material tracked out on County Road 33 and maintain safe entrance and exit to the site.

UNFINISHED BUSINESS:

Comprehensive Plan Update - Matt Jacobson: There will be a meeting on February 22nd for Community Engagement on the draft of the plan. After that meeting, the Plan will be presented to the Board of Commissioners for their approval sometime in March.

NEW BUSINESS:

- Steve Mortensen resignation after March 2022 meeting – Steve Mortensen will be resigning due to moving out of the County.
- Election of Officers: Election of Officers was held by process of nomination for the position and then a private paper vote taken. The following members were unanimously elected to these positions:
 - Chair: Ezra Baer
 - Vice-Chair: Joel Hildebrandt
 - Secretary: Laura Johnson

ADJOURNMENT:

On motion by Curt Stubstad, seconded by Steve Lindaas, and unanimously approved, the meeting adjourned at 8:52 pm by newly elected Vice-Chair Joel Hildebrandt.



Laura Johnson, Planning Commission Secretary