

**MINUTES
CLAY COUNTY PLANNING COMMISSION
7:00 TUESDAY, SEPTEMBER 21, 2021
THIRD FLOOR BOARD ROOM, CLAY COUNTY COURTHOUSE**

Members Present: Kurt Skjerven, Joel Hildebrandt, Steve Lindaas, Andrea Koczur, Ezra Baer, Bill Davis, Jenny Mongeau, Mark Klevgaard, Steve Mortensen

Members Absent: Laura Johnson, Curt Stubstad

Others Present: Adam Altenburg, Matt Jacobson, Erika Franck, Rita Rueckert, Brian Melton, Brady Olson by phone, Leah Skjerven, Tim Hoff, Dulcie Hoff, Bob Schmidt, Trini Cyr, Brian Cyr, Nicholas Aadland, Brian Heide, Darin Haugen

ROLL CALL: Roll call was taken, and the meeting was called to order at 7:00 PM by Chair Bill Davis.

APPROVAL OF AGENDA:

On motion by Ezra Baer, seconded by Steve Lindaas, and unanimously carried, the Planning Commission approved the Agenda.

APPROVAL OF MINUTES FROM AUGUST 17, 2021 MEETING:

On motion by Ezra Baer, seconded by Andrea Koczur, and unanimously carried, the Planning Commission approved the August 17, 2021 Minutes.

CITIZENS TO BE HEARD:

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

PUBLIC HEARINGS:

CYR LLC – REQUEST FOR INTERIM USE HOME OCCUPATION PERMIT

The applicant is seeking approval of an after-the-fact interim use home occupation permit for an agricultural trucking and logistics business in Lot 3 Block 1 of Jepsens 1st Subdivision, 643 Hwy 9 S, Glyndon, MN 56547, Parcel ID 25.060.0103, Section 8, Township 139N, Range 46W in Riverton Township.

On motion by Ezra Baer, seconded by Jenny Mongeau, and unanimously carried, the Planning Commission opened the public hearing.

Matt Jacobson, Planning Director, stated this is a request for an Interim Use Home Occupation Permit. The following Policy Considerations were reviewed:

- General Goal #1: Maximize the potential of Clay County as a thriving center for agriculture, business and recreation, while maintaining and enhancing its livability.

- Land Use Goal #1: Establish a comprehensive growth management strategy for Clay County that promotes orderly and efficient growth of residential, commercial and industrial development while preserving the County's rural character.
- Land Use Goal #4: Plan for the orderly, efficient growth of commercial and industrial development in the county through the application of appropriate zoning districts and regulation.
- Policy #3: Allow for home occupants in agricultural areas and small, community-based retail in the County's unincorporated rural communities.

The subject property is zoned Agricultural General. The use is permitted as an Interim use in this zoning district.

This property is 3.58 acres. There are a residence and two (2) outbuildings located on this site. Total square footage of the business buildings is 10,800 square feet and, in addition, there is approximately one (1) acre of parking space. This property is located in Jepson's Subdivision, which was platted in 1981, and contains three (3) parcels. This residence and business are located on the southern-most lot. There are 2 neighbors to the north and none in any other direction. The property is adjacent to Highway 9 and is well-screened by trees. This agricultural trucking business has operated on the property since 1997. There are 3 employees plus the owner. They operate year-around and are registered and in good standing with the Department of State as an LLC. The most recent addition was in 2019 when a large storage building was constructed onsite.

This Interim Use Home Occupation Permit request is to allow the applicant to store equipment and operate their business, Cyr Logistics LLC, based out of the two (2) existing buildings.

Conditional Use Home Occupation Standards were reviewed:

- **Conditional Home Occupations:** Conditional home occupations not located in subdivisions may exceed the provisions of subsection B, immediately above, if they meet all of the following provisions:
- **Conditional Use:** Home occupations allowed under this section shall be processed as a conditional use permit meeting the requirements of this section in addition to the general requirements for a conditional use permit. A site plan shall be submitted with the conditional use permit application showing the location of all existing structures and describing the proposed use.
- **Review of Permit:** Conditional home occupation uses shall be reviewed and inspected by the planning department at least once every five years for compliance with conditions.
- **Where Located:** Conditional home occupations shall be located on lots not located in platted subdivisions. Conditional home occupations may be located within the dwelling or in a separate nonresidential or farm building.
- **Size Limited within Dwelling:** If the home occupation is located within the dwelling, the area of the dwelling where the home occupation is located shall not exceed twenty-five percent (25%) of the main floor area, but not including basement or garage floor space. Structural additions may be made to a dwelling to accommodate a home occupation provided the alterations shall not exceed twenty-five percent (25%) of the main floor of the area of the dwelling, but not including basement or garage floor area.
- **Size Limited in Accessory Structures:** A new accessory structure or structures principally used for the home occupation shall not exceed ten thousand (10,000) square feet in total for all structures thus used. A new accessory structure shall mean any structure built at the time the conditional home occupation permit is applied for or a structure built within the immediately preceding five (5) years. If an existing accessory structure. Or combination of structures, is proposed to be used for the home

occupation, the structure or structures shall not exceed thirty thousand (30,000) square feet in total for all structures thus used. Existing accessory structures shall have been in existence for a period of more than five (5) years prior to the application for a conditional home occupation. If a combination of new and existing accessory structures is proposed to be used for the home occupation, only one new structure is allowed and shall not exceed ten thousand (10,000) square feet and the existing structures combined with the new structures shall not exceed thirty thousand (30,000) square feet in total. Proposed uses exceeding the size limits in this paragraph shall be located in ASC Agricultural Service Center Districts or other commercial districts because of associated traffic, parking, employee, utility and signage needs. Home occupations located in accessory structures may result in a split tax classification for the parcel where the structures are located. A commercial property tax rate may apply to home occupations in accessory structures.

- **Minimum Lot Size:** The minimum lot size required for a lot on which a conditional home occupation is permitted shall be eighty thousand (80,000) square feet.
- **Employees:** Employees shall be limited to person(s) residing in the dwelling, immediate family members and up to five (5) additional non-family employees. The Planning Commission may allow additional employees if traffic, parking, utility and impact on surrounding properties are addressed.
- **Sign:** One non-illuminated sign only of a maximum size of thirty-two (32) square feet is allowed to advertise the home occupation on site. Such sign shall meet the setbacks for structures for the zoning district within which the home occupation is located.
- **Traffic and Roads:** Traffic generated by the use shall be considered by the Planning Commission and traffic generated by the home occupation shall not exceed that which is reasonable for the area in which it is located and the road adjacent to the home occupation.
- **Adverse Effect:** The occupation shall not adversely affect the character of the uses permitted in the district in which it is located.
- **Performance Standard:** No equipment or processes used in the conditional home occupation shall create noise, vibration, glare, fumes, odors or electrical interference detectable off the premises.
- **Buffering:** Buffering may be required by the Planning Commission to minimize adverse effects on adjacent properties and roadways.
- **Utilities:** The home occupation shall not create usage exceeding the capacity of available on-site sewage treatment and drinking water.
- **Parking:** Additional parking spaces may be required by the Planning Commission for the use of clients, deliveries, etc.

Some of these items were considered by the Board of Adjustment when they reviewed the request for the Variance earlier this same date.

Director Jacobson presented a draft of the Findings of Fact and Order which gave starting points for discussion. Mr. Jacobson's comments included:

- **Effect of Use:** *Use is compatible with the Agricultural General Zoning District. Have not received any complaints about the business.*
- **Use and Enjoyment of Other Property:** *Use is screened from adjacent residential property to the north by trees. Property is maintained in a neat and orderly manner.*
- **Development of Surrounding Property:** *Surrounding properties are residential or agricultural.*
- **Utilities, Access Roads, Drainage, Off-Street Parking and Loading Spaces:** *Use fronts a state highway. The property has ample parking screened from adjacent residential property. Drainage*

from amount of impervious surface may need to be addressed.

- **Nuisance Conditions:** *Daytime hours of operation. Use is naturally screened by trees for noise.*

Director Jacobson has received one phone call from a neighbor asking if the current use was going to change at all, and once advised there was no foreseen changes of current use, the neighbor supported the request. There were no comments received in opposition of this request.

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. Hours of operation as determined by the Planning Commission; and
4. Any other Conditions the Planning Commission deems necessary.

Mark Klevgaard inquired what circumstances brought this to the attention of the Planning Department. Mr. Jacobson advised that it is located along a well-traveled main highway and there have been changes at the property which made it more visible and brought inquiries.

Brian Cyr of Cyr LLC advised he has been on the property since 1997 and added the cement to keep the place looking clean and keep the neighbors happy. He was looking to purchase additional land but was unable to and feels he has grown as much as possible.

On motion by Ezra Baer, seconded by Andrea Koczur, 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 applied.

There was discussion regarding hours of operation. Circumstances of hauling livestock vary for processing appointments, weather conditions, etc. Taking these circumstances into consideration, the Planning Commission felt that the hours of operation condition should not be included.

On motion by Mark Klevgaard, seconded by Kurt Skjerven, and unanimously carried, the Planning Commission *GRANTED* the request for 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.

DARIN HAUGEN – REQUEST FOR INTERIM USE HOME OCCUPATION PERMIT

The applicant is seeking approval of an interim use home occupation permit for a landscaping business in Lot 00A of Registered Land Survey #3, 7610 40th St. N, Moorhead, MN 56560, Parcel ID 23.011.2003, Section 11, Township 140N, Range 48W in Oakport Township.

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

Matt Jacobson, Planning Director, stated this is a request for a home occupation permit to operate a landscaping business on a residential property. Policy considerations include:

- **General Goal #1:** Maximize the potential of Clay County as a thriving center for agriculture, business and recreation, while maintaining and enhancing its livability.
 - **Land Use Goal #1:** Establish a comprehensive growth management strategy for Clay County that promotes orderly and efficient growth of residential, commercial and industrial development while preserving the County's rural character.
 - **Land use Goal #4:** Plan for the orderly, efficient growth of commercial and industrial development in the County through the application of appropriate zoning districts and regulation.
- Policy #3:** Allow for home occupations in agricultural areas and small, community-based retail in the County's unincorporated rural communities.

This property and all surrounding properties are zoned Ag General. A Home Occupation-Conditional Use is an allowed use with an Interim Use Permit in the Agricultural General zoning district. The property is 5.96 acres, located at 7610 40th Street North, Moorhead in Oakport Township. The property has one residential structure and one outbuilding located onsite. The Planning Commission recommended an approval of a platted subdivision which was granted by the Board of Commissioners earlier this year; however, this parcel is not located within that subdivision and is just on the outside of it.

The request is for the applicant to store their equipment for their business, Haugen Landscaping, on their residential parcel. The business operates year-round doing landscaping during the summer months and snow removal in the winter, Monday-Friday, 5AM to dusk. The site would be used to store some of the equipment for the business in an existing 5600 square foot shop/storage building that was built this year. There is also a 3,360 square foot shop attached to the residence that could be used for the business. The total building square footage is 8,960, which is under the maximum 10,000 square feet that is permitted by Code. There is adequate space for parking all equipment onsite. The driveway and parking area are concrete. The nearest residence is approximately 200 feet to the north. The residence to the south is not yet built. There are currently 7 employees of this business. They also have another leased site in Dilworth. There have been neighbors voicing concerns about neighborhood traffic, safety of area children and how much equipment will be stored outdoors. Oakport Township has also heard these same concerns. Photos were shown which had considerable equipment present on the residential parcel as well as at their leased Dilworth property. It was noted that construction is not yet complete on the residential parcel.

Conditional Home Occupation Standards are the same as just reviewed in the previous hearing for Cyr LLC. Two highlights were the maximum building square feet permitted by Code of 10,000 square feet, which the applicant is under; as well as the minimum lot size of 8500 square feet, which the applicant exceeds.

Director Jacobson presented a Draft Findings of Fact and Order:

- **Effect of Use:** Use is compatible with Agricultural General Zoning District. Have received concerns from neighbors about traffic and storage of equipment, materials and vehicles outdoors.
- **Use and Enjoyment of Other Property:** Could be addressed by requiring indoor storage of business-related equipment, materials and vehicles and/or screening.
- **Development of Surrounding Property:** Surrounding properties are residential or agricultural.
- **Utilities, Access Roads, Drainage, Off-Street Parking and Loading Spaces:** Use fronts a paved

county state aid highway. The property could be screened from adjacent residential property. Drainage from amount of impervious surface may need to be addressed.

- **Nuisance Conditions:** Applicant states his intention is to store vehicles indoors

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) Storage of equipment and any business-related materials shall be within a building or screened from adjacent residential properties;
- 4) Employees shall be limited to members of the house and five (5) additional non-family employees, unless a plan for additional employee parking and mitigation of potential impacts are provided to the Planning Office; and
- 5) Any other conditions the Planning Commission deems necessary.

Ezra Baer asked if Director Jacobson had shared the 5 suggested action conditions with the Applicant and Mr. Jacobson advised that he did not as these were also listed for standards on the Application.

Bill Davis asked if the equipment is going to be “stored” or if it was just going to be “onsite”. Ezra Baer asked for a more specific look at the surrounding parcels and identify which were residences and which were agricultural. There was discussion regarding if there were limitations placed on surrounding parcels for onsite equipment storage, specifically, the permitted stable across the street; there were no restrictions regarding a limit on horse trailers for that business.

Darin Haugen of Haugen’s Landscaping advised that the equipment he currently has onsite is for his own personal use. He is hoping to have his onsite personal work finished up by fall. However, his business has grown and he does have more equipment than he had expected. He does expect to keep all equipment in storage. He states that his yard will be the nicest yard in the neighborhood once it is completed. He states that he has 5 employees plus family members, so that would be a total of 7 employees. He recently added another year to his lease on the business location in Dilworth and expects to keep that location. However, if he starts experiencing problems at the in-town lot, he may consider moving his business operation out to his residence. He stated that his wife is very “picky” regarding how their property looks and will not allow equipment to be laying or scattered around. Current employees are himself, his 2 sons and 3 actual hired workers. Occasionally they will have part time students assist them. He has installed a parking lot behind his shop building.

Chair Bill Davis pointed out that applicant was previously living on Highway 9 and their yard was always very well kept and attractive.

Tim Hoff of 7447 40th Str N is a neighbor south and west of the applicant property, who is concerned about a lack of rules and the potential for growing trees for a nursery, piles of landscaping rocks/bricks and multiple pieces of equipment laying around. He also stated concerns about the applicant ending his lease at the property in Dilworth and bringing his entire business out to the parcel in question and creating an industrial park across the road from the Hoff property.

Neighbor Brady Olson stated that Darin Haugen has a lot of equipment as he has numerous businesses that run under one umbrella. It is his feelings that there is simply not enough storage area to hold all of the possible

equipment. Brady Olson expressed concern that all of these businesses are licensed or registered through North Dakota and none of them are licensed in Minnesota.

Dulci Hoff, wife of Tim Hoff, stated she does not want to have an industrial park across from her. There are many families with small children in the area, there is a bike club that come out weekly on Thursdays, there are older couples walking, there are moms pushing strollers, and children on bikes. She is also concerned about salt trucks run by Haugen Landscaping and the effects of that salt on the new roadway. She does not want to see the neighborhood being populated with industrial equipment.

On motion by Ezra Baer, 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 applied.

Ezra Baer observed that this area is in General Ag zoning and some of the equipment used in landscaping is the same type of equipment used for agricultural uses.

Mark Klevgaard advised that he drove past the property this morning and there are large lots in this area. It is a perfect spot for agricultural and commercial activity. There is a horse boarding stable across the street with many horse trailers being stored outdoors. Steve Lindaas pointed out that there are valid neighbor concerns.

On motion by Ezra, seconded by Mark Klevgaard, the Planning Commission *VOTED* to grant the Home Occupation Interim Use Permit to include the following conditions: Conditions 1, 2 and 4 and remove condition 3 which included indoor storage and screening requirements.

Roll call vote yielded the following Yeas: Joel Hildebrandt, Kurt Skjerven, Ezra Baer, Jenny Mongeau, Mark Klevgaard and Steve Mortensen. Nay votes: Andrea Koczur and Steve Lindaas.

On motion by Steve Lindaas, seconded by Andrea Koczur, amending the first Motion to include Condition #3 for regulating outdoor storage and required screening. Yea Votes: Andrea Koczur and Steve Lindaas. Nay Votes: Joel Hildebrandt, Kurt Skjerven, Ezra Baer, Jenny Mongeau, Mark Klevgaard, and Steve Mortensen.

Motion was approved to *GRANT* the Interim Use Home Occupation Permit and include 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. Employees shall be limited to members of the house and five (5) additional non-family employees unless a plan for additional employee parking and mitigation of potential impacts are provided to the Planning Office.**

HEIDE CONSTRUCTION – CONDITIONAL USE REQUEST FOR CONVERSION OF NON-CONFORMING USE

The applicant is seeking approval of a Conditional Use Permit to allow the conversion of a non-conforming use (office) to another non-conforming use (commercial daycare) in an existing building. Proposed use

would be located at 4938 Hwy 75 S, Moorhead, MN 56560, Parcel ID 21.029.4302, Section 29, T139, R48 in Moorhead Township.

On motion by Ezra Baer, seconded by Andrea Koczur, and unanimously carried, the Planning Commission opened the public hearing.

Matt Jacobson, Planning Director, advised that this is a request to expand one non-conforming use to another non-conforming use of lesser intensity. Policy Considerations reviewed include:

General Goal #1: Maximize the potential of Clay County as a thriving center for agriculture, business and recreation, while maintaining and enhancing its livability.

- Policy #1 Promote the development and implementation of a Comprehensive Plan that effectively plans for agricultural protection, land use, transportation, housing, economic development and environmental protection for Clay County.

Land Use Goal #4: Plan for the orderly, efficient growth of commercial and industrial development in the County through the application of appropriate zoning districts and regulation.

- Policy #2 Encourage commercial and industrial developments, which do not need public sewer and water, to locate within Planned Urban Growth Areas in locations with adequate road service.

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

- Policy #6 Encourage the location of commercial and industrial development in areas that avoid adverse impacts on residential areas.

This location is on Highway 75 South. It is zoned Highway Commercial and has an Urban Expansion Tier 1 Overlay Zoning District. The lot is approximately .44 acres in Moorhead Township. There is a commercial building on the site. The applicant is proposing to use the existing building, which is currently an office space, and remodel it for a daycare (preschool) facility. Going from a non-conforming use to a non-conforming use is permissible. The applicant did receive a Conditional Use Permit (CUP) for this exact use on the parcel immediately to the north, which is now known as the Nurtured Nest Daycare.

This request is to convert the 2760 square feet of building into preschool classrooms for the adjacent daycare (Nurtured Nest owned by Aadland Holdings). Hours of operation would be the same as the daycare facility of 7AM to 6PM. The facility would have two (2) preschool classrooms. The plans have no kitchen on site and the previous CUP stated all food preparation would occur at a licensed commercial kitchen. The site allows ample green space for the children to play on the adjacent lot. The building is currently vacant and will be completely remodeled. Applicant Owner Heide Construction previously used the building for their office space.

The facility is accessed from Highway 75 via a driveway entrance that is located on the property that services both this lot and the daycare to the north. The driveway was paved in 2020. There is a small gravel parking area on the property with space for approximately 8 vehicles. There is a newer housing development across the roadway to the west and there are no other daycare facilities nearby. There are approximately 88 residences/businesses within 1000 feet of the proposed facility.

Director Jacobson reviewed 8-2-2 Nonconforming Uses and Structures in All Districts from the Clay County Development Code:

- **Discontinued or Abandoned:** If a nonconforming use or nonconforming structure is discontinued or abandoned for a period of one-year, further use of the structure shall conform to this Ordinance. The Zoning Administrator may be made aware of discontinuance or

abandonment by staff observation or other evidence, in addition however, the County Assessor shall notify the Zoning Administrator in writing of all instances where a nonconforming use or structure has been discontinued or abandoned for a period in excess of twelve (12) consecutive months.

- **Change in use:** Change in nonconforming uses shall comply with the following provisions:
- **Change to Allowed Use:** A nonconforming use may be changed to a permitted or Conditional Use that is allowed in the zoning district where the use is located.
- **Change to Use of Lesser Intensity:** The nonconforming use of a structure and land may be changed to another nonconforming use if approved by the Planning Commission as a Conditional Use. Such change shall be allowed only if the new use is of lesser intensity than the original nonconforming use.
- **Cannot be Re-established:** In every instance where a nonconforming use is replaced by a conforming use, no nonconforming use on that site shall be resumed.
- **C. Increase in Nonconformity Prohibited:** Nonconforming use of a structure, nonconforming use of land, or nonconforming structures shall not be expanded, enlarged, intensified, or altered in a way that increases its nonconformity.

Director Jacobson clarified that the nonconformity of the daycare does not allow the footprint of the daycare to be expanded by enlarging the current building. If you have a use that is a legal nonconforming use that has been in use, you can legally change that to another nonconforming use. You can do remodeling, repairs, painting, or installation of anything for health or safety reasons.

This location is in the Moorhead's Growth Area Plan. The Planning Office did reach out to the City of Moorhead and they have no problems with this request. They did, however, want to reiterate that this parcel does not have current access to city utilities. The current classification of the parcel is industrial and the proposed use would be considered commercial, suggesting the proposed use would be of lesser intensity. A copy of the site plan was reviewed.

Staff recommends approval of this request with the following condition(s) be considered:

1. **Septic system for structure must be inspected by Clay County Environmental Health and found to be compliant with current County Codes and is adequately sized for the proposed daycare.**
2. **Daycare facility must be licensed by Clay County Social Services and Minnesota Department of Human Services;**
3. **Applicant shall meet all elements of the General Review Standards for Conditional Use Permits (CUPs);**
4. **Facility must provide adequate parking spaces;**
5. **Facility signage shall meet Highway Commercial (HC) or Limited Highway Commercial (LHC) sign standards (maximum of 128 square feet per sign face – maximum of 2 faces – or 5% of the wall area on which sign is located); and**
6. **Any other conditions as the Planning Commission deems necessary.**

These conditions are similar to the conditions on Aadland Holdings Nurtured Nest 2018 CUP.

Mark Klevgaard asked what the nonconforming use would be for this request. Director Jacobson stated that the location is in Urban Expansion Tier 1 Zoning District, and essentially a daycare is not an allowable use within that district. The area is also zoned Highway Commercial and a daycare is an allowable use within that zoning district.

Brian Heide is the owner of this building and the building to the south. He states that the owner of the Nurtured Nest to the north wants to expand into his building and it is his hope to be able to lease his building to Nurtured Nest owner Nicholas Aadland.

Nicholas Aadland states he and his wife are operators of Nurtured Nest, and emphasized that there is a great need for daycare in the community. They were recently nominated for best daycare in Red River Valley. They have high reviews on Facebook and Google. They will operate the daycare and the preschool in tandem to greater serve their families.

Moorhead Township reached out regarding concerns about parking. Once they realized it was the same operators as the daycare to the north, they were no longer concerned. Director Jacobson drafted responses to some of the Findings of Fact and Order:

- Conflict with Comprehensive Plans: the use is not in conflict with the comprehensive plan, if any, of the township or city or County. *Use does not appear to be in conflict with any comprehensive plan.*
- Traffic Hazards, Congestion in Flood Plain Areas: The use will not cause traffic hazards or congestion and in flood plain areas has access during flooding for ordinary and emergency vehicles. *Not applicable.*
- Existing Businesses: Existing businesses nearby will not be adversely affected because of curtailment of customer trade brought about by intrusion of noise, glare or general unsightliness. *Additional traffic may be an issue for business to the south. However, this business has the same ownership (Brian and Tammy Heide).*

On motion by Joel Hildebrandt, 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 applied.

On motion by Steve Lindaas, seconded by Andrea Koczur, and unanimously carried, the Planning Commission *GRANTED* the Conditional Use Permit to include the following conditions:

1. **Septic system for structure must be inspected by Clay County Environmental Services and found to be compliant with current County Codes and adequately sized for the proposed daycare;**
2. **Daycare facility must be licensed by Clay County Social Services;**
3. **Applicant shall meet all elements of the General Review Standards for CUPs;**
4. **Facility must provide adequate parking spaces;**
5. **Facility signage shall meet Highway Commercial (HC) or Limited Highway Commercial (LHC) sign standards (maximum of 128 square feet per sign face (maximum of 2 faces) or 5% of the wall area on which sign is located).**

SCHMIDT & SONS BUILDING MOVERS, INC. – REQUEST FOR AN INTERIM USE PERMIT EXTENSION

The applicant is seeking approval of an extension to a previously issued interim use permit to temporarily store three houses on parcel 23.007.3100, part of the NE1/4 of the SW1/4, Section 7, Township 140N, Range 48W, Oakport Township.

On motion by Ezra Baer, seconded by Jenny Mongeau, and unanimously carried, the Planning Commission opened the public hearing.

Matt Jacobson, Planning Director, clarified that the hearing states it is an extension, but it is actually a new hearing because the previous Permit was a temporary Interim Use Permit and will be obsolete upon issuance of any new Permit.

Policy considerations reviewed include:

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 #7: Locate and design industrial and commercial developments to avoid truck traffic through residential or other potentially adversely affected areas.
- Policy #18: Discourage inappropriate development in flood-prone areas.

This property is zoned Ag General (AG), Flood Fringe (FF) and Floodway. This property is located just on the edge of the city of Moorhead and in Oakport Township. The houses are not in the floodway. This is an allowed Interim Use for Temporary Use in the AG and FF zoning district. It is currently used for agriculture. The only houses on the site are the ones temporarily being stored.

The permit was approved July 20, 2021 by the Planning Commission. The following conditions were applied:

- All homes stored on the site shall be removed and this permit shall expire at midnight on September 28, 2021
- The site and homes thereon shall be kept and maintained in good condition, order and repair at all times so they will not endanger life or property of any person.
- No more than three (3) homes shall be stored on the site.
- A \$100 administrative penalty per house per day (maximum \$2500) will be issued for any house that is on the premises after the permit has expired.

The application received for this hearing states that there is only one (1) house remaining onsite; however, there are currently three (3) houses on site. The County is preparing to do roadwork beginning in Spring 2022 on County Road 1 and the houses will need to be removed from this parcel well in advance of that roadwork. County Highway Department would like to see the houses removed from this property before the end of this year.

Bob Schmidt thanked the Planning Commission for allowing this hearing. The first house will be moved next week to Georgetown. The moving of the second house has issues with a communication line and just late this date they got approval so that house is now scheduled for moving October 8th. The last house will be moved into a nearby subdivision, Preserve on Broadway. The field is planted with alfalfa and the farmers has asked that they not remove the houses until the alfalfa can be removed, so that is delaying the final move. He feels

that all 3 houses should be gone by mid-October.

On motion by Ezra Baer, 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 applied.

Director Jacobson shared drafted responses for the Findings of Fact and Order:

- **Effect of Use:** *Use is of a temporary nature. Homes may attract theft and vandalism the longer they remain on the property. As the weather turns, the homes are more likely to attract transient/squatter activity.*
- **Use and Enjoyment of Other Property:** *Use is of a temporary nature.*
- **Development of Surrounding Property:** *Use is of a temporary nature.*
- **Utilities, Access Roads, Drainage, Off-Street Parking and Loading Spaces:** *Not applicable*
- **Nuisance Conditions:** *Nuisance conditions may arise during moving of homes.*
- **Burden on Public Services:** *May create a burden if not moved by end of the year as County Highway 1 is slated for major construction beginning in the Spring of 2022.*
- **Compatibility:** *Use is of a temporary nature.*
- **Appearance of Structure and Site:** *Use is of a temporary nature.*
- **Relationship to Overall Needs:** *Use is of a temporary nature. Applicant stated that alternative sites were not available.*
- **Consistency with Ordinance:** *Use is of a temporary nature.*
- **Conflict with Comprehensive Plans:** *Use does not appear to be in conflict with any comprehensive plan.*
- **Traffic Hazards, Congestion in Flood Plain Areas:** *Would only cause an issue if home moving coincided with major flood event.*
- **Existing Businesses:** *Not applicable.*

On motion by Ezra Baer, seconded by Mark Klevgaard, and unanimously carried, the Planning Commission *GRANTED* the Interim Use Permit with the following conditions:

1. All homes stored on the site shall be removed and this permit shall expire at midnight on December 21, 2021.
2. The site and homes thereon shall be kept and maintained in good condition, order, and repair at all times so they will not endanger life or property of any person.
3. No more than three (3) shall be stored on the site.
4. A \$100 administrative penalty per house per day (maximum \$2500 per house) will be issued for any house that is on the premises after the permit has expired.

UNFINISHED BUSINESS:

- **Matt Jacobson & Adam Altenburg – Clay County Comprehensive Plan Update**

Mr. Altenburg gave a quick recap of the focus groups that they have met with. The most recent was the Economic Development on September 10th, and prior to that was the producers and agriculture stakeholders' group on August 26th. Questions asked of the producers group included:

- ❖ What are the top issues for agriculture in Clay County right now?
- ❖ How has agriculture changed in the last 20 years?
- ❖ Are there certain agricultural trends that you see emerging that would be good to highlight in the plan?
- ❖ What County land use controls have impacted agriculture in Clay County?
- ❖ Are there any types of resources that the County could provide that would be beneficial?

Takeaways were identified as: more voice on roadway projects, transportation and infrastructure; housing of migrant workers; tough to hire and keep semi drivers; experimentation with sustainability initiatives (cover crops) with mixed results; Clay County continues advocating at the state level, opportunities for more equitable assessments; consider landowner representation on the Heartland Trail Task Force.

The economic development focus group included members of the Greater Fargo-Moorhead EDC, Moorhead Inc, the Moorhead Business Association, Barnesville EDA, West Central Initiative, West Central Small Business Development Center and several other groups. Some of the questions brought to this group were:

- ❖ Are there certain workforce trends that you see emerging, either pre- or post-pandemic?
- ❖ What do you feel should be the County's role in economic develop?
- ❖ What can the County do to better promote, attract, and/or expand industries and businesses in Clay County?
- ❖ Are there resources that the county could provide that would be beneficial to employees or employers?
- ❖ Are there any types of programs or incentives that you are aware of that would be good to highlight as part of the comprehensive plan?

Some responses included that economic development is shifting to housing needs by helping build community amenities and welcoming New Americans; accelerated "mass resignations" during the pandemic and more concern in rural areas to help business owners exit or transition ownership; difficulty getting matching funds for a project or initiative; having information readily available about the building/planning process; share success stories about enterprises in the County; some counties have staff committed to economic development endeavors.

Past outreach has included Natural Resources, Aggregate Producers, Public Safety & Emergency Response, and Public School Districts. Mr. Altenburg felt it may be beneficial to reach back to them. Comments and key takeaways from each of these groups were reviewed.

Next steps will include a Study Review Committee meeting on October 12th, to draft the Transportation and Land Use Sections, looking at additional planning strategies, introduce a discussion on goals and objectives and another Public Input Meeting toward mid-November/early December. The Planning Commission was asked if they had any questions on the Community Profile information. Director Jacobson asked Mr. Altenburg to post this Community Profile information online for public viewing.

- Matt reviewed the results of the Red River Valley Electric Co-Op that the Planning Commission referred to the Board of Commissioners for approval was heard last week. After discussion, the Board

of Commissioners did deny the request on a 3-2 vote. There was discussion regarding what development limitations should be on wellhead protection areas and what limitations should be placed on the Buffalo Aquifer area. Definitions were reviewed for the Groundwater Resource Protection terms: Drinking Water Supply Management Area (DWSMA), Drinking Water Supply Management Area Vulnerability; Wellhead Protection Area (WHPA), Emergency Response Areas (ERAs).

NEW BUSINESS:

None (as Draft Community Profile Discussion was covered under Unfinished Business above)

ADJOURNMENT:

On motion by Ezra Baer, seconded by Joel Hildebrandt, and unanimously approved, the meeting adjourned at 9:26 PM.



Steve Mortensen, Planning Commission Secretary