

MINUTES
CLAY COUNTY PLANNING COMMISSION MINUTES
7:00 TUESDAY, NOVEMBER 16, 2021
THIRD FLOOR BOARD ROOM, CLAY COUNTY COURTHOUSE

Members Present: Bill Davis, Kurt Skjerven, Ezra Baer, Jenny Mongeau, Steve Lindaas, Joel Hildebrandt, Curt Stubstad, Steve Mortensen

Members Absent: Andrea Koczur, Laura Johnson

Others Present: Matt Jacobson, Erika Franck, Connie Mortenson, Jeff Mortenson, Marcus Lewis, Alvin Hanson, Kurt Sogn, Scott Tempel, David Steichen, Jake Pender, Tom Askegaard, Mark T Anderson, Adam Altenburg, David Ebinger

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

APPROVAL OF AGENDA:

It was suggested that the unfinished business Adam Altenburg be moved to the beginning of the meeting. On motion by Jenny Mongeau, seconded by Steve Lindaas, and unanimously approved, this agenda change was made.

APPROVAL OF MINUTES FROM OCTOBER 19, 2021 MEETING:

On motion by Steve Lindaas, seconded by Ezra Baer, and unanimously carried, the Planning Commission approved the October 19, 2021 Minutes.

CITIZENS TO BE HEARD:

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

PUBLIC HEARINGS:

MARK LEWIS – REQUEST FOR INTERIM USE PERMIT

The applicant is seeking approval of an after-the-fact interim use permit to allow a second dwelling on a parcel in the S1/2 S1/2 of the NW1/4 and N1/2 N1/2 of the SW 1/4, Section 17, Township 139N, Range 45W, Hawley Township, 1706 190th St. S, Hawley, MN 56549, Parcel ID 13.017.0201.

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

Matt Jacobson, Planning Director, advised that the Board of Adjustment earlier this evening granted the Applicant Lewis a Variance for the interim use-second dwelling standards and reduction of septic setback from Ordinary High-Water Level (OHWL) from 200 feet to 175 feet from the Buffalo River. This hearing is for an Interim Use Permit for the second residence.

Policy considerations from the Comprehensive Plan 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.
- **Natural Resources Goal #1:** Identify, protect, and preserve the County's high quality natural, scenic, cultural and open space areas.
 - Policy #13: Continue to enforce shoreland regulations on the County's lakes, rivers and streams.

This property is zoned Agricultural General (AG), Resource Protection-Aggregate (RP-Agg) and Shoreland-Special Protection Rivers and Streams. The property is 80-acres and is currently used for residential and agricultural purposes.

Aerial photos were provided showing the placement of the structures and the drainfield. It was pointed out that the drainfield slopes away from the river due to the topography. This residence was previously a granary and was renovated for use as living quarter and has been there as a residence since approximately 2012.

Standards for a second dwelling on a parcel from Section 8-5-6E2 include:

2. A second dwelling on the parcel to be used by parent(s), grandparent(s), children, sibling(s) by blood, marriage, adoption, or other special relationships consistent with the purpose that meets the following standards:
 - a. **Said dwelling must be a manufactured home (single or double-wide)**
 - b. **Dwelling must not be placed on a permanent foundation**
 - c. Dwelling must have a septic system that meets County Health requirements.
 - d. Dwelling must share a common well with the principal dwelling.
 - e. No more than one (1) dwelling shall be allowed on a parcel.
 - f. Parcel must be at least five (5) acres in size.

There is a 200-foot setback from rivers and streams for on-site septic systems.

Director Jacobson advised that the current trend with other counties is that they are starting to allow more accessory dwelling units on parcels. He feels this is due to trends of family wanting to be in closer proximity and mobile homes are decreasing in use.

Applicant works on the property and with many of his duties being close is necessary, as in during calving season, etc. There is a lack of nearby affordable housing in this general area.

Applicant Marcus Lewis is the son of the owner Mark Lewis, and he works on the farmstead.

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.

On motion by Ezra Baer, seconded by Curt Stubstad, and unanimously carried, the Planning Commission *GRANTED* the Interim Use Permit for a second dwelling on the parcel to include the following conditions:

1. **Applicant must abide by provisions of the Clay County Development Code;**
2. **Per the standard 8-5-6E2: The second dwelling can only be occupied by parent(s), grandparent(s), children, sibling(s) by blood, marriage, adoption or other special relationships;**
3. **Septic system must be approved by Clay County Environmental Health;**
4. **The residential use of this second dwelling unit shall terminate when the applicant vacates the dwelling. The landowner/applicant shall notify Clay County Planning & Zoning in writing when the second dwelling is no longer in use, and in the event the septic is to be abandoned it must be properly capped/sealed by an approved method through Clay County Environmental Health.**

NOVEL ENERGY SOLUTIONS – REQUEST FOR CONDITIONAL USE PERMIT (Valan)

The applicant is seeking approval of a conditional use permit for a 1-megawatt community solar garden on parcel 19.025.3330, part of the W1/2 of the SW1/4, Section 25, Township 138N, Range 48W, Kurtz Township.

Due to a relationship with the Applicant landowner, Commissioner Jenny Mongeau recused herself from this hearing and was replaced by County Commissioner David Ebinger, a Planning Commission alternate.

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

Matt Jacobson, Planning Director advised this request is for a 1-megawatt Community Solar Garden. This request is similar to other solar garden requests heard a few months ago by this Planning Commission.

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 #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 #4: Provide appropriate access management for commercial and industrial development along Highways 10, 336, 9, 32, 34 and Interstate 94 at areas preferably near major intersections with County Roads and each other.
- Policy #5: Avoid environmentally sensitive areas and/or ensure mitigative measures are taken when siting commercial and industrial development within the County.

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 #6: Encourage the location of commercial and industrial development in areas that avoid adverse impacts on residential areas.
- Policy #7: Locate and design industrial and commercial developments to avoid truck traffic through residential or other potentially adversely affected areas.

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

- Policy #9: Require all new development to comply with applicable storm water management plans and policies.

This property and all adjacent properties are zoned Agricultural General (AG). Community solar gardens are allowed within this zoning district. The proposed parcel is 77 acres located in Kurtz Township and is currently used for Agricultural purposes. There is one barn located on the parcel. Aerial photography with diagrams of the solar structures and roadway access were reviewed.

The site is expected to be developed in Spring 2022 for a 1-megawatt community solar garden. The request will be for a period of up to 30 years and will interconnect directly to the existing distribution system of Xcel Energy. No permanent structures will be built onsite. The site will cover approximately 9.42 acres. There will be no water, sewer or waste management services required. Signage will be located onsite, and an unpaved 16-foot access road will be built from the public road CSAH 8 to the project. Low maintenance turf seed mix or similar seed mix is utilized. Native grasses or specific pollinator plantings will be utilized in according with the landscaping plan.

Applicant will control noxious weeds throughout the life of the project. There will be a 6-foot security fence around the entire perimeter. A full drainage report will be completed as part of the Stormwater and Pollution Prevention Plan (SWPPP) Permit. No substantial grading, filling, removal of soils or addition of soils are proposed. Applicant will comply with the Minnesota Pollution Control Agency (MPCA) Construction Stormwater Permit requirements since the site will be over an acre in size, including obtaining a National Pollutant Discharge Elimination System (NPDES) stormwater permit prior to construction. No temporary sediment basins are required, and no permanent structures or buildings are proposed. Panels will feed inverters and a signed Interconnection Agreement with Xcel Energy will be provided prior to construction activities. A Building Permit will be required if this Permit is approved.

The decommissioning plan will commence within 180 days of the end of the project's useful life. Proposed plan life is currently 25 years or greater. At decommissioning, all project components will be dismantled and removed using minimal impact construction equipment and the materials will be appropriately recycled or disposed. Established vegetation can be maintained or tilled and re-planted to other vegetation upon the landowner's request. Applicant will be responsible for all decommissioning costs and there will be a decommissioning bond required. Applicant will need to work with Clay County Highway Department for a site access permit; County Engineer does not feel this should be a problem.

Site is currently prime farmland, and the project will require approximately 9 acres.

Ezra Baer asked if the bond should run years 6-30 instead of years 6-25. Director Jacobson agreed that the bonds should run years 6 through 30.

Scott Tempel from Novel Energy advised that the leases are for 25 years, with a 5-year extension option. The projects are guaranteed to produce for 25 years but if they are still producing power at the end of 25 years the owners can extend their contract for an additional 5 years. Novel Energy focus on doing community solar gardens and they are a subscription power source.

Ezra Baer asked if the 3 hearings this date have already been approved through Xcel Energy. Mr. Tempel advised that the projects are still in the interconnection queue, and that Novel Energy is awaiting the

interconnection agreements from Xcel Energy. Mr. Baer also inquired about the status of the four (4) previously approved community solar gardens from several months ago. Mr. Tempel advised that they are still waiting for those interconnection agreements, and that several projects have been pushed out from 2021 to 2022 due to rising costs of copper and other necessary supplies at this time. Curt Stubstad asked why only 1 megawatt for a 9-acre project; Mr. Tempel shared this is due to Public Utility Commission rules state that there is a maximum of 1 megawatt per company per mile. Ezra Baer asked if the time limit of the Conditional Use Permit be extended since the projects are being pushed out due to material costs and availability; Director Jacobson advised extensions could be included as part of the Permit approval.

Mr. Tempel states that they will do the required pollinator mix; however, they are also experimenting with the use of sheep to control noxious weeds. The sheep come in the spring and eat down the weeds, the pollinators grow up and then at the end of the season the sheep are brought back in to take down the vegetation again. He advised that the site manager name and phone number are posted right at each site. Director Jacobson stated that in the Renewable Energy Ordinance it is a requirement that the community solar gardens have native pollinator planting as their vegetation per Minnesota State Statute 216B.1642 Solar Site Management.

On motion by Ezra Baer, seconded by Joel Hildebrandt, 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 Ezra Baer, seconded by Curt Stubstad, and unanimously carried, the Planning Commission *GRANTED* the Conditional Use Permit for a 1-megawatt community solar garden with the following conditions:

- 1. Construction must meet all County, State, and Township Building Permit requirements;**
- 2. Decommissioning bond payable at \$1000 for years 6-30 of the project;**
- 3. Surety bond at 125% of the cost of establishing native plant cover on the project site;**
- 4. Approved site access permit obtained through Clay County Highway Department; and**
- 5. Building will begin within three (3) years of this date.**

NOVEL ENERGY SOLUTIONS – REQUEST FOR CONDITIONAL USE PERMIT (Pender)

The applicant is seeking approval of a conditional use permit for a 1-megawatt community solar garden on parcel 01.001.4700, part of the NE1/2 of the SW1/4, Section 1, Township 137N, Range 47W, Alliance Township.

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

Matt Jacobson, Planning Director, advised that this is for a 1-megawatt community solar garden, same project as the last hearing but in a different location. The policy considerations are the same. This subject property is zoned Agricultural General (AG) and Agricultural Service Center (ASC) (Baker). All immediately adjacent properties are zoned AG and ASC. Community solar gardens are allowed by a Conditional Use Permit (CUP) in these zoning districts.

The proposed parcel is 175 acres located in Alliance Township, and the property is currently used for agricultural purposes. There are no structures or buildings located on the parcel.

Construction is planned for the Spring of 2022. The project request will be for a period of up to 30 years. No permanent structures will be built onsite. The site will cover approximately 11.15 acres and no water, sewage or waste management services are required. Signage will be located onsite. An unpaved 16-foot access road will be from the public road CSAH 52 to the project. Pollinator plantings will be utilized.

Applicant will control noxious weeds throughout the life of the project. There will be a 6' security fence around the entire perimeter. A full drainage report will be completed as part of the Stormwater and Pollution Prevent Plan (SWPPP) permit. No substantial grading, filling, removal of soils or addition of soils are proposed. Applicant will comply with the Minnesota Pollution Control Agency (MPCA) Construction Stormwater Permit Requirements, including obtaining a National Pollutant Discharge Elimination System (NPDES) stormwater permit prior to construction. No temporary sediment basins are required. Panels will feed inverters to connect to the electric grid at point of interconnection. A signed Interconnection Agreement will be required from Xcel Energy.

Decommissioning would commence within 180 days of the end of the project's useful life. At time of decommissioning, project components will be dismantled and removed using minimal impact construction equipment, and materials will be safely recycled or disposed. Established vegetation can be maintained or tilled and replanted to other vegetation upon landowner request. Applicant will be responsible for all decommissioning costs. The solar garden will essentially lock the land use for 25 years or more. Applicant will be required to meet insurance requirements under long-term contracts with several parties, including the site landowner, Xcel Energy and its project lenders and investors. The Applicant will need to work with the Clay County Highway Department for a site access permit to create an access to the site. In discussing this with the Highway Department, they would like the existing field approach on Highway 52 to be used, if possible. A decommissioning bond and surety bond will need to be secured.

A map was shared, identifying this as prime farmland, if drained. Project setback is 125 feet from highway centerline.

Scott Tempel of Novel Energy advised they intended to use the existing field access but feels that the designers may not have seen it.

Jake Pender states that he has always intended to forfeit the approach to the project. He states he does have 3 others approaches available for access to his farmland.

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.

On motion by Ezra Baer, seconded by Steve Mortensen, and unanimously carried, the Planning Commission *GRANTED* the Conditional Use Permit for a 1-megawatt community solar garden with the following conditions:

1. **Construction must meet all County, State, and Township Building Permit requirements;**
2. **Decommissioning bond payable at \$1000 for years 6-30 of the project;**
3. **Surety bond at 125% of the cost of establishing native plant cover on the project site;**
4. **Approved site access permit obtained through Clay County Highway Department; and**
5. **Building will begin within three (3) years of this date.**

NOVEL ENERGY SOLUTIONS – REQUEST FOR CONDITIONAL USE PERMIT (Askegaard)

The applicant is seeking approval of a conditional use permit for a 1-megawatt community solar garden on parcel 15.017.4000, part of the SE1/4, Section 17, Township 137N, Range 48W, Holy Cross Township.

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

Matt Jacobson, Planning Director, advised this is the same request as the previous two hearings, but at a different location. The policy considerations are the same.

This property and all immediately adjacent properties are zoned Agricultural General (AG) and Community Solar Gardens may be allowed by a Conditional Use Permit (CUP). This property is a 175-acre parcel currently used for agricultural purposes and there are no structures located on the property.

This project is west of and is on the same parcel as the soon-to-be-constructed southern embankment for the FM Diversion Project. The FM Diversion Authority has reviewed this project and they do not believe there will be any conflicts between the two projects.

The construction and development of this 1-megawatt community solar garden is expected in the Spring of 2022. The request will be for a period of up to 30 years. No permanent structures will be built onsite. The site will cover approximately 10.6 acres. No water, sewage or waste management services are required. Signage will be located onsite. An unpaved 16-foot access road will be built from public roadway US Highway 75 to the project. Native grasses or specific pollinator plantings will be utilized in accordance with the landscaping plan and as set out within the Renewable Energy Resource Plan.

Applicant will control noxious weeds throughout the life of the project. The project will include a 6' security fence around the entire perimeter. A full drainage report will be completed as part of the Stormwater and Pollution Prevention Plan (SWPPP) Permit. No substantial grading, filling, removal of soils or addition of soils are proposed. Applicant will comply with the Minnesota Pollution Control Agency (MPCA) Construction Stormwater Permit Requirements, including obtaining a National Pollutant Discharge Elimination System (NPDES) stormwater permit prior to construction. No temporary sediment basins are required. No permanent structures or buildings are proposed. Panels will feed inverters to ultimately connect to the grid at a point of interconnection. A signed Interconnection Agreement with Xcel Energy will be provided prior to construction activities commencing.

The decommissioning plan is the same as the previous 2 hearings. The Applicant will need to work with the Minnesota Department of Transportation for a site access permit to create an access to the site. A

decommissioning bond and surety bond will be required.

This is an area of prime farmland, if drained. The southern embankment of the Diversion will be running north and then west along the northern parcel line.

Steve Lindaas confirmed if the Diversion Project engineers have given approval. Director Jacobson advised that at the time of the Staff Report preparation, he was still waiting to hear. However, he has since been in discussions with the Diversion engineers and they advise they do not see any impacts. They were planning to attend this hearing but then after their full review decided attendance would not be necessary. Jenny Mongeau stated that there have been internal discussions within the County regarding any potential impact this project would have on the FM Diversion; but after discussion with the MCCJPA committee, it was determined there was initially confusion that this project was on the west side of the dam. However, due to the design of the Diversion dam, it leaves a small, difficult-to-farm triangle of property which is where this project is proposed and appears to be a good fit for the otherwise unusable tract.

Scott Tempel of Novel Energy was present for any questions. He advises they have not heard anything from any neighbors but are sensitive to any concerns. Jenny Mongeau advised some of the township officials have stated concerns about decommissioning and she has explained the bonding situation with them. She feels that this is an education opportunity.

Mark Anderson of Holy Cross Township was present and asked about the decommissioning bond. It was confirmed that the bond is \$1,000 per year from years 6-30. He felt that removing the concrete slabs and the size of these slabs would cost more than the proposed decommissioning bond. There was discussion regarding the benefits of the salvageable material that could be reclaimed from the project. Jenny Mongeau clarified that the bonding is not intended to be funds for the County to clean up and decommission; however, it is funds for the County to go after the Applicant in the event the project was not decommissioned and the site reclaimed; it is only to hold the Applicant accountable to do what is outlined in the decommissioning plan.

Jenny Mongeau advised she has had a couple conversations regarding this proposed project. One of those conversations was with the Holy Cross Township representative and she felt that all matters were clarified during that conversation. The other conversation was with an area farm who just stated that they are against the community solar gardens.

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.

Jenny Mongeau inquired as to impacts and insurance requirements in the event of dam failure. Mr. Jacobson stated that the burden of that would be within the owner of the solar project. Diversion authorities recommend no development, primarily residential, within one-quarter mile.

On motion by Ezra Baer, seconded by Jenny Mongeau, and unanimously carried, the Planning Commission *GRANTED* the Conditional Use Permit for a 1-megawatt community solar garden with the following conditions:

1. **Construction must meet all County, State, and Township Building Permit requirements;**
2. **Applicant will work with the Fargo-Moorhead Diversion Authority to ensure that there are no impacts to the construction and operation of the Southern Embankment;**
3. **Decommissioning bond payable at \$1000 for years 6-30 of the project;**
4. **Surety bond at 125% of the cost of establishing native plant cover on the project site;**
5. **Approved site access permit obtained through Minnesota Department of Transportation (MNDOT); and,**
6. **Building will begin within three (3) years of this date.**

JEFF AND CONNIE MORTENSON – PETITION FOR REZONING

The applicant is petitioning to rezone their property from Resource Protection – Biological, Resource, Protection – Aggregate, Agricultural General to Resource Protection – Aggregate, Agricultural General. Said property is parcel 11.007.3700 part of the S1/2 of the SW1/4, Section 7, Township 141N, Range 44W, Goose Prairie Township.

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

Matt Jacobson, Planning Director, states that the Applicant is looking for rezoning a portion of his 91-acre parcel, with the end-goal being a future gravel mine. The current zoning is Agricultural General (AG) with Resource Protection-Aggregate (RP-Agg) and Resource Protection Biological (RP-Bio) overlays. The proposed Use is permitted under current zoning with completion of an Environmental Assessment Worksheet (EAW) before being issued an Interim Use Permit.

Applicant is proposing to remove the Resource Protection-Biological (RP-Bio) overlay on a portion of the parcel. The proposed use would then be permitted as an Interim Use without an EAW.

The site is in the northeast area of the County, west of the Ulen-Hitterdal area, south of Felton Creek. There are a number of other gravel pits in that area. Director Jacobson gave a history on the parcel as follows:

- April 2018: Summit Sand & Gravel submitted Interim Use Permit application for 38-acre gravel pit on this parcel. Applicant also submitted a draft EAW shortly after that application.
- May-July 2018: The EAW was reviewed by County and DNR staff and determined to be incomplete.
- June 2019: Applicant (now Strata Corp) met with County Staff about revisiting project. Staff reviewed the EAW and determined it had not gone through the proper comment and review procedures.
- 2020: Strata Corporation indicated they would not pursue the project.
- Spring 2021: Mr. Mortenson and Scott Wirtjes of Alexandra Gavel Products met with planning staff about opening a gravel mine on Mr. Mortenson's property. Staff informed them that an EAW needed to be completed prior to a Permit hearing. Staff provided party with copy of the Strata EAW.
- July 2021: Landowner tilled and applied Round-Up to approximately 50 acres of the parcel, including native prairie.
- August 2021: Landowner and Mr. Wirtjes met with planning staff about project to see if an EAW was still needed. Staff informed them that an EAW was still required, despite destruction of the native prairie, as the zoning remained Resource Protection-Biological. Landowner stated that he would till up

the remaining native prairie and farm the entire parcel if a gravel pit could not be approved.

- Because the landowner and Mr. Wirtjes felt that an EAW was no longer necessary, staff recommended splitting most of the remaining native prairie from the parcel and petitioning to rezone a portion of the disturbed ground of the parent parcel.
- Landowner subdivided the parcel and completed a wetland delineation on both parcels because there are wetlands on the north part of the parcel that feed into the Felton Creek.

Photos were provided of the disturbed portion of the parcel, as well as photos of the remaining native prairie.

Director Jacobson went over the Zoning Overlay Districts of the Development Code and how they are applied in relation to other zoning districts. In this case there is an RP-Agg Overlay District and also an RP-Bio Overlay District both on the same parcel. The requirements that impose the greater or most strict standards, that is the Overlay District that would be applying requirement standards. In this case the RP-Bio has greater significance than the RP-Agg Overlay Zoning District.

Regarding an EAW in an RP-Bio Zoning District: An application for an extractive use in a Resource Protection-Biologically Significant Areas District shall include an Environmental Assessment Worksheet conforming to the requirements of the Minnesota Environmental Policy Act of 1973 and 6 MCAR 3.021. This means that in Minnesota you can't have a hearing on an extractive use project within an RP-Bio zoning until an EAW is complete.

The purpose of the RP-Bio district is to protect areas with biologically significant habitat as determined by the Minnesota Department of Natural Resources County Biological Survey. History was reviewed regarding the Clay County Prairie Resources. Prior to settlement there were 620,158 acres of prairie, roughly 92% of the County. The remaining native prairie is approximately 20,598 acres, approximately 3% of Clay County. The type of Prairie on the Mortenson parcel is called the Dry Hill Prairie and there is approximately 330 acres remaining within the County. The other 2 types of Prairies are Wet Prairie and Mesic Prairie, with the Dry Hill Prairie being the rarest. With the removal of approximately 50 acres from that now, that would leave approximately 280 acres in Clay County, with almost half of that amount being Mr. Mortenson's property. There are categories defined by the Minnesota Biological Survey Sites of Biodiversity Significance rating their value, and Mr. Mortenson's Dry Hill Prairie land would be rated High, which is the second highest rating category: Outstanding, High, Moderate, Low and Disturbed.

Regarding the Resource Protection-Aggregate zoning on the parcel under Minnesota Statutes Chapter 84.94, the aggregate rich Agassiz Beach Ridge area in addition to the glacial deposits of eastern Clay County have been inventoried by the Minnesota DNR. Areas of aggregate potential have been mapped county-by-county. Within Clay County there is approximately 47,796 acres with high or moderate aggregate potential, which is approximately 7% of Clay County; however, this potential could likely be much higher due to study limitations. Clay County currently has 64 active gravel mines, with a total of approximately 2,564 acres.

Comments have been received from several nearby residents, as well as other Goose Prairie Township residents, stating concern about the loss of native prairie, impacts to adjacent ag land and the potential for another gravel pit within the Township. There was a letter received this date from the Department of Natural Resources (DNR) which was shared with the Planning Commission members. The DNR letter outlines the following concerns:

- Dry Hill Prairie is an imperiled plant community
- Nearby Felton Creek is a protected trout stream
- There is a potential for cumulative impacts associated with gravel mining within this area
- The Clay County Comprehensive Plan recognizes the importance of protecting native prairie and the conflict between native prairie and aggregate resources
- There are better sites for aggregate extraction in Clay County that do not impact native prairie

Another more detailed letter was received from a resident, outlining these concerns:

- Only about 1% native prairie communities remain on a global scale and Minnesota has lost approximately 99% of their native prairie. The beach ridge area is one of the few remaining areas within the state of MN that still supports this declining ecosystem.
- Prairie provide essential ecosystem services such as hay for livestock, habitat for birds, mammals, invertebrates, amphibians, etc; water purification, erosion prevention, and many rare plant species and insects maybe present in MN prairies;
- Natural prairies in Clay County are a patchwork of fragmented ecosystems impacted by human activity.
- Erosion and sediment transport are serious problems, much of which stems from erosion in the contributing watershed.
- Parcel in question is located on a slope above Felton Creek, which has a reach 3 miles downstream from the property that has been designated as impaired by the MPCA.
- Quality of life for rural residents should be appreciated as the number of gravel and sand mines has been increasing drastically during the last decade.
- Decrease in students available for rural area schools as rural families are being driven out by gravel trucks, noise, traffic and asphalt plant activity.

Director Jacobson offered the following Rezoning Considerations for the Planning Commission:

- Removing the Resource Protection-Biological Zoning Overlay District for the purpose of permitting a gravel mine without an EAW would set a precedent that could impact other areas with native prairie and aggregate resources;
- The landowner could apply for a Use Permit under the current zoning with a completed EAW;
- The remaining native prairie on the parcel and the adjacent parcel could be converted to an agricultural use by the landowner, resulting in further loss of native prairie;
- The only enforcement mechanism for preventing native prairie loss is the federal “sodbuster” act, which restricts federal farm subsidies to landowners who convert highly erodible land that has not been plowed to agricultural use.

Currently, in Clay County the zoning ordinance protects native prairie from residential or commercial development, but not agricultural development, which is under the purview of the USDA.

There was clarification that the Planning Commission would only be making a recommendation to the Board of Commissioners this evening. In order for approval, there would need to be a super-majority of 4 of the 5 Commissioners voting in favor of the rezoning at the County Board.

Director Jacobson reviewed the Clay County Development Code 8-4-6D: Criteria and General Review Standards with the Planning Commission and his comments for each subject matter. Ezra Baer asked what year this Overlay was applied to this parcel and Director Jacobson advised it was applied in the early

2000's. Steve Mortensen asked if the existing gravel pits within the Applicant's area had the RP-Bio Overlay and Director Jacobson stated the gravel pits were in existence before the RP-Bio Overlay was applied.

Applicant Jeff Mortenson asked if there were any questions. Joel Hildebrandt asked what the current use is for this land, and the Applicant states that it is used as pasture. He knows that there are 2 gravel pits on the other side of the fence and that he wasn't aware of the RP-Bio zoning overlay on it until about 4 years ago. Applicant states he had two 2-year contracts with Strata for gravel and doesn't know why they couldn't get through the paperwork to complete the contracts. Bill Davis asked if he had looked into a sodbuster program, but Applicant Mortenson stated he wasn't familiar with that. Mr. Mortenson stated that if he doesn't get the rezoning for the gravel pit, he would probably rent it out for tillable farmland. Joel Hildebrandt asked how good this farmland could be as it appears to be very rocky. Mr. Mortenson states that they are farming right across the fence and his property is surrounded by farmland. Steve Lindaas pointed out that getting the gravel pit is able to be completed, but the Applicant would require to complete an EAW, even though once he completes the paperwork process, he will still need an EAW. Mr. Lindaas asked why the Applicant doesn't just go ahead and get the EAW completed. Mr. Mortenson states he has owned the land for 20 years and hasn't ever gotten much profit off of it.

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

Director Jacobson reminded the Planning Commission that their only determination this evening is if the RP-Bio overlay should be removed in whole or in part and on how much of the parcel to be included; and that the decision is only for a recommendation to be made to the Board of Commissioners. Additionally, the RP-Agg overlay will remain on the property. Removing the RP-Bio would allow other uses than just a gravel pit.

Director Jacobson advised that an EAW could be required under any of these circumstances if the rezoning is approved: a) requested by the County; b) the project proposer could just decide to do one; or c) via Citizen Petition. There was vast discussion exploring the conflicts of balancing RP-Bio and RP-Agg, RP-Bio and Agriculture, the issue of this being after-the-fact of plowing up a portion of the RP-Bio land, rights of landowners and limiting the profitability of their land. Steve Mortenson shared that the City of Barnesville recently had a similar situation and they worked with that landowner to rezone the property which gave the City greater control over the development on that parcel. Planning Technician Erika Franck researched information and advised that for the public to request an EAW, a petition would only require 100 signatures from Minnesota landowners.

The Findings of Fact and Order were addressed and discussed by the Planning Commissioners as they pertain to the request.

On motion by Steve Mortensen, seconded by Curt Stubstad, a Motion was made to recommend to the Board of Commissioners to rezone 52 acres by removing the Resource Protection-Biological (RP-Bio) overlay. The roll-call vote resulted in approval with 6 Yes and 2 No votes:

Steve Lindaas	No
Curt Stubstad	Yes
Ezra Baer	Yes
Jenny Mongeau	Yes

Joel Hildebrandt	No
Kurt Skjerven	Yes
Steve Mortensen	Yes
Bill Davis	Yes

UNFINISHED BUSINESS:

Adam Altenburg of MetroCog presented a brief presentation on the Comprehensive Plan components and advised the work had begun on completion of the final document. He states that he hopes it will be completed very soon to be able to share it in its entirety.

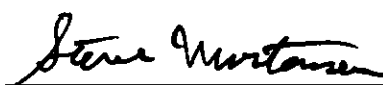
Director Jacobson advised that the Study Review Committee had met several weeks ago and discussed having a special meeting of the Planning Commission in December to review the draft goal and objectives for the Plan. He shared that most of the regular meetings have had quite full agendas the past several months and the Plan discussion has been limited because of these full meetings. There was discussion regarding date and time of this special meeting. It was decided the special meeting will be held on Thursday, December 16, 2021 at 6:00 PM. On motion by Ezra Baer, seconded by Steve Lindaas, and unanimously approved, the Planning Commission will hold a Special Meeting on Thursday December 16, 2021 at 6:00 PM for discussion of the Comprehensive Plan update.

NEW BUSINESS:

- Consider special meeting of Planning Commission for the Comprehensive Plan update: There will be a Special Meeting of the Planning Commission for review of the Comprehensive Plan update on Thursday, December 16, 2021 at 6:00 PM.
- Planning Commission opening – review applications: Director Jacobson advises he has not yet received any applications. An advertisement will be placed in The Extra newspaper in the Thursday, November 25th Thanksgiving edition, which is mailed directly to residences throughout the County. This advertisement is seeking interested applicants for the position available on the Board of Adjustment and the position available on the Planning Commission and the criteria for both positions.

ADJOURNMENT:

On motion by Ezra Baer, seconded by Joel Hildebrandt, and unanimously approved, the meeting adjourned at 9:36 PM.



Steve Mortensen, Planning Commission Secretary