

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

Members Present: Joel Hildebrandt, Kurt Skjerven, Ezra Baer, Steve Mortensen, Laura Johnson, Curt Stubstad (via Teams Meeting)

Members Absent: Bill Davis, Steve Lindaas, Andrea Koczur, Jenny Mongeau

Others Present: Matt Jacobson, Erika Franck, Adam Altenburg, Kirsten Guida, Luke Champa, Bryce Moen

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

APPROVAL OF AGENDA:

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

APPROVAL OF MINUTES FROM NOVEMBER 16, 2021 MEETING:

On motion by Kurt Skjerven, seconded by Steve Mortensen, and unanimously carried, the Planning Commission approved the November 16, 2021 Minutes.

CITIZENS TO BE HEARD:

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

PUBLIC HEARINGS:

HOUGH INC OF DETROIT LAKES – REQUEST FOR INTERIM USE PERMIT

The applicant is seeking approval of an interim use permit to allow for a 39-acre gravel mining operation in part of the NW ¼, Section 22, Township 137N, Range 45W, Parcel 16.022.2000 & in the S ½ SW ¼, Section 15, Township 137N, Range 45W, Parcel 16.015.3700 in Humboldt Township.

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

Matt Jacobson, Planning Director, stated that Hough Inc has requested to expand an existing gravel mining operation. Policy considerations 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 #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.

Aerial photos were displayed showing where the proposed pit is located. The location is an existing pit that was permitted for 10-acres and is currently about 15-acres in size so it will require a new permit.

The property is zoned Agricultural General (AG), Resource Protection – Aggregate (RP-Agg) and Resource Protection – Biological (RP-Bio). This request is an allowable use with an Interim Use Permit and mandatory Environmental Assessment Worksheet (EAW) in the Resource Protection – Biological (RP-Bio) area. The subject area is a total of 217 acres across two parcels and is located in Section 15 of Humboldt Township. The property is currently used for agricultural and mining purposes and there are no structures on the property.

The Applicant is seeking an Interim use Permit to allow for a 39-acre gravel mining operation that was previously permitted as a Conditional Use in 2001, granted to Mark's Sand & Gravel and Ervin Borgheiinck, the previous landowner. That gravel mining permit was for a 10-acre gravel mining operation; however, aerial imagery shows the pit exceeding that acreage by approximately 5 acres. Therefore, a new Interim Use Permit for mining is required.

Since 2001 the mining operation has expanded and contracted numerous times. Current footprint is 15 acres on only one parcel. The mining is encroaching on the property line to the north. The Applicant plans to mine through the existing property line on the parcel to the north. Both of these parcels are under the same ownership. There are no Variances recorded on either of the two parcels. Variances to the 100-foot property line setback will need to be approved or the property owner must combine the two parcels to comply with the Clay County Development Code extractive use standards.

The mining plan is for procurement of generally select granular borrow (sand) and occasionally bring in and crush recycled concrete and asphalt material through use of portable aggregate crushing equipment. Equipment will include screens, feeders, stacking conveyors, loaders, dozers and hydraulic excavators. Material will be hauled by dump trucks, belly dumps, etc. Mining is to occur in five phases. They plan to mine in a new area north of the existing pit and do reclamation as useable material is depleted. The depth to water table ranges from 0 to 50 feet in the area, according to the Minnesota Department of Natural Resources (MN DNR). There are no wetlands within the proposed project site. They do not plan to mine in water, and they have no plans for dewatering. Staff recommends a wetland evaluation by the Soil and Water Conservation District (SWCD). Gravel washing is not anticipated. The Applicant has applied for a general NPDES permit for all pits. They will have approximately 2 to 3 employees working onsite. The Applicant is requesting operating hours for mining activities to be April through November, Monday through Saturday and 6 AM to 8 PM (generally dark to dark). The permit request is for a 15-year duration.

The haul route would be on 150th Ave S to CSAH 25 or south on 210th Street S to Highway 34. The Applicant plans to apply calcium chloride on haul roads annually for dust control. Feedback from the Clay County Highway Department is to recommend a condition that the operator should assist the County with maintenance if the frequent truck traffic causes damage to the roadway. The Highway Department maintains 200th Street S (CSAH 25), and they have a maintenance agreement with the Township to fully maintain 210th Street South, and have an hourly maintenance agreement for 150th Avenue South. The recommended maintenance includes applying dust control in front of any residences, blading the road as frequently as daily dependent on conditions, mandating chloride, watering the road during dry periods and adding gravel that may be needed to bridge areas damaged from the heavy truck traffic. This condition would also apply to any hired or sub-leased contractors.

All slopes will be within the interior of the mining operation so all drainage will extend vertically into the floor of the excavated areas. Berms will be in place around the exterior portion of the pit. All topsoil berms will be seeded with native grasses until it is used for reclamation. Existing vegetation is primarily hay/pasture land, or barren. A map was provided showing the 5 phases of anticipated mining. Primary sloping would be from east to west to the floor of the pit.

The site will be sloped 4:1. There are no permanent water impoundments planned. Disturbed areas will be seeded to prairie grasses and mowed annually for maintenance. Reclamation is anticipated to be approximately \$1,500 per acre.

Ezra Baer asked if there were any comments received; Director Jacobson stated he has not received any comments from neighbors, Township or MN DNR. Clarification was discussed regarding the maintenance requests by the Clay County Highway Department. Joel Hildebrandt asked about repercussions for the expansion of the pit past the stated allowance on their Conditional Use Permit. Matt Jacobson stated that in this situation there isn't much that can be done at this point.

Applicant Bryce Moen of Hough, Inc was present. He states they have been operating this pit since approximately 2015, though there hasn't been much activity.

Kirsten Guida called in. She is a resident on 210th Street. She states she has not been approached about this permit application. They have lived in this area for 5-1/2 years and the only dust management was when she and her neighbors filed a complaint. She states they are unable to open their windows during spring, summer or fall and the truck traffic is difficult on home maintenance and on car maintenance. Ezra Baer reiterated the conditions requested by the County Highway Department. Ms. Guida asked who will be coming out to inspect the roads to know when maintenance would be required without the residents calling in to place complaints. Matt Jacobson advised that the office is a staff of 3 people, but the department has been ramping up its inspections on all County gravel pits. Mr. Jacobson also addressed haul road routes and their impacts on the residences in the area.

Staff recommendations for approving the Interim Use Permit include the following conditions:

1. Operate within provisions of the Clay County Land Development Ordinance, especially the specific setbacks required for mining operations and batch plants.
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 local/state/federal regulating

agencies prior to commencing mining operations.

4. Operator shall have Clay Soil Water Conservation District conduct a wetland evaluation prior to opening of new areas to mine.
5. Operator shall construct a berm along the northern most extent of the pit to prevent erosion and runoff into the intermittent stream to the north.
6. Operations must comply with all provisions of Wetland Conservation Act.
7. Operator permitted to mine up to 39 acres. If additional acres are proposed to be opened in the future, a new or amended IUP would be required.
8. Operator must post a reclamation bond of \$1500 per acre.
9. Operator shall reclaim mined out areas as mining activities progress. Areas are to be seeded to native prairie grasses upon reclamation.
10. Operator shall provide parking, screening, lighting, drainage, and portable sewer facilities consistent with County regulations as determined by the Planning Department and the County Health Department.
11. Operator to present a detailed mining plan to Planning Office indicating exact area to be mined, current topography, final topography, phases of mining operation, equipment locations, locations or hazardous material storage and sanitary facilities and stormwater management plan prior to commencing any operations at the site.
12. Mining operations: April through November; hours for mining and screening and haling shall be limited to 6AM to 8PM, Monday through Saturday.
13. Permit shall expire in 15 years on December 31, 2036.

On motion by Joel Hildebrandt, seconded by Kurt Skjerven, 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.

Joel Hildebrandt asked that two items be included to the conditions: The first would be inclusion of 150th Avenue South to CSAH 25 to Highway 34 as the primary haul route; and the second would be imposing a lower speed limit for trucks in that area. Ezra Baer stated that the problem of putting out signs to change the speed limit is the enforcement of that speed limit. Matt Jacobson advised he has had discussions with the Sheriff's Department and the problem is the enforcement of whatever the speed limit is that is posted. Matt Jacobson also added that a condition to consider including would be for the Applicant to combine their parcels to eliminate the future need of a Variance for the property line setback.

On motion by Joel Hildebrandt, seconded by Laura Johnson, and unanimously carried, the Planning Commission *GRANTED* the request for the Interim Use Permit, with the following conditions:

1. Operate within provisions of the Clay County Land Development Ordinance, especially the specific setbacks required for mining operations and batch plants.
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 local/state/federal regulating agencies prior to commencing mining operations.
4. Operator shall have Clay Soil Water Conservation District conduct a wetland evaluation prior to opening of new areas to mine.
5. Operator shall construct a berm along the northern most extent of the pit to prevent erosion and

runoff into the intermittent stream to the north.

6. Operations must comply with all provisions of Wetland Conservation Act.
7. Operator permitted to mine up to 39 acres. If additional acres are proposed to be opened in the future, a new or amended IUP would be required.
8. Operator must post a reclamation bond of \$1500 per acre.
9. Operator shall reclaim mined out areas as mining activities progress. Areas are to be seeded to native prairie grasses upon reclamation.
10. Operator shall provide parking, screening, lighting, drainage, and portable sewer facilities consistent with County regulations as determined by the Planning Department and the County Health Department.
11. Operator to present a detailed mining plan to Planning Office indicating exact area to be mined, current topography, final topography, phases of mining operation, equipment locations, locations of hazardous material storage and sanitary facilities and stormwater management plan prior to commencing any operations at the site.
12. Mining operations: April through November; hours for mining and screening and haling shall be limited to 6AM to 8PM, Monday through Saturday.
13. Permit shall expire in 15 years on December 31, 2036.
14. Primary haul route shall be 150th Avenue South to CSAH 25 to Highway 34.
15. Applicant shall consider combination of the two parcels to eliminate the need for a future Variance for mining into property line setbacks.

CLAY COUNTY DRAFT 2045 COMPREHENSIVE PLAN

The Planning Commission will discuss and make recommendations on the draft 2045 Clay County Comprehensive Plan. The plan contains a variety of information on demographics, land use and identifies a vision, goals and objectives to guide future development and land use in Clay County.

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

Matt Jacobson, Planning Director, introduced Adam Altenburg attending via Teams Meeting. Mr. Altenburg presented information on Implementation Guide and Next Steps. The first set of tools was under Community and Resilience, which included public health, childcare needs, threat and hazard identification/risk assessments, and the Clay County Collaborative which provides opportunities for children and families within the community. The next tool was Housing and addresses, homeownership assistance, single family development, multi-family development, rental assistance, housing stabilization services, home rehab programs and home improvement funds. Land Use tool included several tools already used by the County, such as zoning, subdivision controls, buffer law, shorelands and floodplain hazard areas. Matt Jacobson asked to include “public waters” under buffer law. Additional topics were stormwater management, sewage treatment, renewable energy, aggregate resources, official mapping and historical/cultural society of Clay County.

The next tool was Transportation, including Highway Safety, Capital Improvement Plan, County Pavement Management, Official map (preservation), Official Map (Heartland Trail), Heartland Trail Planning Study, and Access Management regulations. Transit planning opportunities were studied: transit planning, bicycle/pedestrian networks, and transportation alternatives.

The last Tool is for Natural Resources and the Environment: Environment and Natural Resources Trust Fund, Outdoor Heritage Fund, Clean Water Fund, One Watershed One Plan Initiative and Parks and Trails Fund.

Next Steps outlined tasks and timeframes and how the tasks will be delivered.

Matt Jacobson advised this information will be posted on the County website, and there will be additional public hearings for the Plan, and he solicited any comments to be sent directly to him. Comments can be accepted until the new Plan is adopted.

On motion by Seve Mortensen, seconded by Joel Hildebrandt, and unanimously carried, the Planning Commission closed the public hearing.

UNFINISHED BUSINESS:

None

NEW BUSINESS:

Planning Commission opening – review applications. Director Matt Jacobson advises there have been no applications received from interested parties. Anyone interested in this position would need to reside in the following incorporated cities: Hawley, Ulen, Hitterdal, Sabin, Georgetown, Glyndon. There is a potential candidate, but their Interest Form has not yet been received.

ADJOURNMENT:

On motion by Steve Mortensen, seconded by Laura Johnson, and unanimously approved, the meeting adjourned at 7:51 PM.



Steve Mortensen, Planning Commission Secretary