

MINUTES
CLAY COUNTY PLANNING COMMISSION MINUTES
7:00 TUESDAY, JUNE 28, 2022
THIRD FLOOR BOARD ROOM, CLAY COUNTY COURTHOUSE

Members Present: Ezra Baer, Brad Eldred, Jenny Mongeau, Bill Davis, Curt Stubstad, Joel Hildebrandt, Laura Johnson, Steve Lindaas,

Members Absent: Andrea Koczur, Brent Berg, Kurt Skjerven

Others Present: Matt Jacobson, Brian Melton, Erika Franck, Rita Rueckert, Justin Sorum, Bishal Khadka, Senud Omerovic, Andreas Omerovic, Cornelius Wipf, Ross Eberle, Landy Sandahl, Lois Jensen, Alheen Mahmud, Mike Hough, Jon Lowry, Dusty Hough

ROLL CALL:

Attendance was recorded by Chair Ezra Baer and meeting called to order at 7:00 PM.

APPROVAL OF AGENDA:

On motion by Steve Lindaas, seconded by Bill Davis, and unanimously carried, the meeting Agenda was approved.

APPROVAL OF MINUTES FROM MAY 17, 2022 MEETING:

On motion by Joel Hildebrandt, seconded by Brad Eldred, and unanimously carried, the Planning Commission approved the May 17, 2022 Minutes.

CITIZENS TO BE HEARD:

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

PUBLIC HEARINGS:

NOVEL ENERGY SOLUTIONS – REQUEST FOR AMENDMENTS TO CONDITIONAL USE PERMITS

The applicant is seeking approval to amend conditional use permits for community solar gardens approved on July 20th, 2021 to allow additional time for establishment of the projects. The project locations are:

Parcel 08.009.1500, part of the N1/2 of the NE1/4, Section 9, Township 141N, Range 46W, Flowing Township;

Parcel 07.034.4600, part of the W1/2 of the SE1/4, S1/2 of the SW1/4, NE1/4 of the SW1/4 Section 34, Township 142N, Range 46W, Felton Township;

Parcel 08.022.2000, part of the NW1/4 Section 22, Township 141N, Range 46W, Flowing Township; and

Parcel 27.004.3002, part of the S1/2 of the NW1/4 Section 4, Township 140N, Range 46W, Spring Prairie Township.

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

Matt Jacobson, Planning Director, advised this request for a CUP was heard July 2021. The current request is to waive the 12-month requirement for construction. Solar panel construction supplies have been impacted and obtaining product has been difficult. Additional hardship has been caused by the tariffs imposed on solar panels from SE Asian countries. This hearing pertains to all four of these projects and is the same request as previously heard by Nexamp Solar earlier this year. There have been no changes to the projects and the only request at this time is for more time to begin construction.

Findings of Fact and Order from the 2021 hearing were reviewed. The Conditional Use Permits were filed under Document numbers 822260, 822261, 822262 and 822263. Director Jacobson recommends the following condition for this hearing:

- Use must be established by December 31st, 2025 for permit to remain valid.

Bill Davis asked if this change would have any impact on the bond requirements. Bonding requirements will remain the same; however, the beginning date will coincide with the beginning of the construction.

The Applicant was not present for the hearing.

On motion by Steve Lindaas, seconded by Curt Stubstad, 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 Steve Lindaas, seconded by Joel Hildebrandt, and unanimously carried, the Planning Commission *GRANTED* the amendment to the previously approved Conditional Use Permits with the following additional condition:

- Use must be established by December 31, 2025 for permit to remain valid.

TARACON PRECAST/SPRING PRAIRIE HB, INC. – REQUEST FOR INTERIM USE PERMIT

The applicant is seeking an interim use permit to replace an existing ready-mix concrete batch plant at 6189 170th St. North, Hawley, MN 56549, parcel 27.014.1700, Section 14, Township 140N, Range 46W, Spring Prairie Township.

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

Matt Jacobson, Planning Director, advised this request is for the precast concrete plant permitted in 2020 in Spring Prairie Township. The request is to replace two of the existing batch plants with one single batch plant.

This property is all of Section 14 and is approximately 643 acres. Land Use is agricultural, commercial industrial and residential. Zoning on the parcel is Agricultural General (AG).

Policy Considerations from the Comprehensive Plan include:

- **Land Use – Agriculture**
 - 1. Recognize and protect the agricultural character of Clay County.
 - Agriculture
 - 1. Support the long-term protection of the County’s strong and diverse agricultural economy.
 - a. Maintain an environment that supports agriculture at all scales throughout the County.
 - b. Recognize and support the agricultural character of the County in all planning efforts.
 - c. Ensure that all new development is compatible with the character and quality of the County’s agricultural areas.
- **Commercial and Industrial**
 - 1. Encourage commercial and industrial development that is in harmony with the agricultural and rural character of Clay County.
 - c. Avoid or mitigate against commercial and industrial development that increases the potential for land use conflicts with rural residential or agricultural uses.
- **Shoreland and Stormwater**
 - 1. Protect and enhance the health and vitality of Clay County surface waters, including lakes, rivers and streams for the benefit and enjoyment of Clay County residents and visitors.
 - d. Require new development to comply with applicable storm water management regulations, plans, and policies, with an emphasis on the urbanizing areas of Clay County.

It was noted that, although this property is not near any lakes or shoreland, there are nearby ditches that do drain into area rivers and streams.

- **Transportation – Freight**
 - 1. Support the movement of freight across Clay County roadways.
 - a. Coordinate with local jurisdictions and use proper planning and zoning methods to locate industrial and commercial developments on or near roadways that can handle heavy commercial truck traffic.
 - b. Monitor seasonal freight traffic, commodity movement, FM Diversion construction traffic, and associated transportation infrastructure to ensure safe and efficient operation of the system. Prepare for increased maintenance along roadways with heavy commercial truck traffic.

Policy Considerations – Clay County Development Code include:

- 8-6-18: STANDARDS FOR REDI-MIX CEMENT PLANT AND ASSOCIATED USES:
- A. Setbacks: Redi-mix cement plants, asphalt batch plants and associated processing facilities and structures shall be setback the following distances:
 - *Three hundred feet (300’) from the boundary of adjoining property lines.
 - *Five hundred feet (500’) from the right of way of the nearest road or highway.
 - *One thousand feet (1,000’) from the boundary of adjoining property upon which residences, schools, churches, public or commercial establishments are located.
- B. Location: Redi-mix cement plants, asphalt batch plants and associated processing facilities and structures should be located, to the greatest extent possible, downwind from any inhabited residential structure located within one-quarter (1/4) mile of the proposed site.

- C. Bonding required. As a condition of granting the permit, the County shall require the owner or operator to post a bond, in such form and sum as the County shall determine, with sufficient surety running to the County, conditioned to pay the County the cost and expense of repairing, from time to time, any highways, streets or other....

Project Proposal was reviewed for replacing the Liebherr Model and Elematic Model batch plants currently onsite. A map of the parcel layout was reviewed, as well as specifics for the replacement batch plant being proposed.

The Applicant received an Interim Use Permit (IUP) in 2011 which included the following conditions and specifics:

1. Operate within provisions of the Clay County Land Development Ordinance.
2. Operator shall provide proof of any Storm Water Management, and air quality permits, as required, to the Planning Office and shall be in compliance with any and all other regulating agencies prior to commencing plant operations.
3. A maximum of 8 acres be approved for the plant site and its associated activities.
4. Applicant shall provide sewer facilities consistent with County regulations.
5. Expiration date for permit will be in 20 years (December 31, 2031).
6. The redi-mix will only be used for manufacturing on the colony site.

There are 2 separate plants currently on the site; only 1 of those plants was permitted. Director Jacobson also noted that bonding has not been required on past batch plant permits.

There was a Variance issued in 2011 for roadway centerline setback for structure to be no closer than 158 feet. All current setback standards are met and bonding has not been required on past batch plant permits. An aerial map was reviewed showing the Spring Prairie Colony lay out with the proposed batch plant. Taracon Precast Production Volume Projections were reviewed. The 2021 actual cubic yards used by the precast facility was 68,000 and maximum plant production is 1,248,000 cubic yards. The 5-year projection of production is 100,000 cubic yards, and the 10-year projection of production is 120,000 cubic yards. Current yearly maximum is 130,000 cubic yards without any expansion.

Air Emissions need to be considered and would include:

- Current Facility Production Capacity (130,000 cy)
 - Particulate Matter (PM) 15.3 tons per year
 - Particulate Matter 10 microns (PM10) 8.6 tons per year
 - Greenhouse gases: 1,837.8 tons per year
- Max Batch Plant Capacity (1,248,000 cy)
 - PM: 91,014 tons per year
 - PM10: 47.4 tons per year
 - Greenhouse gases: 10,348.8 tons per year
- Regulatory thresholds
 - PM: 100 tons per year for Federal Air Quality Permit / 250 tons per year for environmental review
 - PM10: 25 tons per year for State Air Quality Permit / 250 tons per year for environmental review
 - Greenhouse gases: 100,000 tons per year for Federal Air Quality Permit

The Minnesota Pollution Control Agency concurs with emissions model and estimates. An air permit may be required due to PM10 levels.

Steve Lindaas asked about the PM 2.5 and noticed that some of the models gave the PM 2.5 and was wondering why the MPCA didn't address this. Director Jacobson advised he was not certain but speculated it could be that this type of activity does not produce very fine particles.

Aggregate resource demand estimates using a 1:2:3 ration for cement, sand and gravel for the facility was reviewed. Currently the Applicant produced 68,000 total cubic yards (cy) of concrete, which included 34,000 cy of sand and 51,000 cubic yards of gravel. Plant maximum production would be 1,248,000 total cy of concrete capable of production, which would be 624,000 cubic yards of sand and 936,000 cubic yards of gravel. The five-year projections would be 100,000 cy of concrete, using 50,000 cy of sand and 75,000 cy of gravel; the ten-year projections would be 120,000 cy of concrete, using 60,000 cy of sand and 90,000 cy of gravel. Plant maximum is approximately 48% of all sand and gravel resources extracted from Clay County in 2021.

Transportation considerations included complaints received for dust, poor road conditions, amount of traffic and reckless driving on 170th Street N/County Road 86 and 70th Ave N east of 170th Street. There is a potential future paving for 70th Ave N west of 170th Street North. Impacts of increased traffic have not been studied. One condition to consider would be requiring dust control along entire length of haul routes as intense traffic and dust create dangerous driving conditions. Haul Route maps were reviewed. Applicant has taken measures for dust control and limiting truck speeds with signage.

Since 2018, approximately 55 acres of land has been or will be converted from agricultural use to industrial use. The mandatory State Environmental Review threshold is 80 acres for land conversion. The industrial floor space was reviewed. Since 2019 Taracon has added approximately 50,000 sq ft of floor space to its facility. Their approximate total is currently 125,800. The environmental review threshold is 100,000 sq ft for an industrial facility in an unincorporated area. There is a three-year look-back rule.

Joel Hildebrandt asked who is responsible for keeping the roads safe from dust. Director Jacobson felt that most of the responsibility lies with Spring Prairie Colony and Taracon as they are the primary users of the roads and this Planning Commission has the ability to put conditions on those entities using these roads; Mr. Hildebrandt felt that it is the responsibility of the private haulers using the road to go to Taracon and not Taracon themselves.

Ross Eberle of Interstate Engineering spoke regarding the application. He stated he has spoken with the Township, County and State regarding upgrading the road to an all-weather road to reduce the maintenance and problems. Chair Baer asked if there had been any calcium chloride applications done. Cornelius Wipf advised they have sprayed the road near the intersection of 28th for a total of 5 miles just 2 weeks ago. He also stated that Aggregate is using the road as much as they are. Mr. Wipf clarified the production of the current 2 plants. The new plant has a large capacity but will only be producing certain times through the day. The 2 current plants are creating inefficiencies. Mr. Wipf emphasized there will be the same amount of concrete produced per day but the new plant is capable of producing a larger quantity per hour. Mr. Wipf also clarified that one of the current plants will be sold and removed; the other will remain onsite for use as a back-up facility.

Steve Lindaas pointed out that there are currently 2 plants but only one is currently permitted; he asked why the

second one was not permitted. Mr. Wipf advised that this occurred before he was the manager and had no explanation. He stated that the future plant is not new and they needed to commit to acquiring the plant and then began the permitting process. Mr. Eberle advised that this is one of only 2 plants like this in the country.

Mr. Landy Sandahl advised his aunt and mother live just outside of the 1-mile radius of the plant. He stated concern about the increased truck traffic. He also indicated that, although there was dust control sprayed down, the area directly in front of his mother and aunt's home was missed. He asked that paving the haul roadway be strongly considered.

On motion by Joel Hildebrandt, seconded by Curt Stubstad, 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.

Staff-recommended Conditions include:

1. Operate within provisions of the Clay County Land Development Code;
2. Provide proof of additional local, state, and federal permits, as required, to the Clay County Planning Office;
3. Maintain and control dust on interior roads and laydown yards, and adjacent exterior (170th St/Co 86 and 70th Ave) roads that service the facility;
4. All concrete produced on site must be used in manufacturing processes onsite. Offsite sale and transport of concrete mix is prohibited;
5. Establish screening between the facility, the adjacent intentional community to the south, and nearby residential uses to reduce noise, dust and visual impacts on Colony members and neighbors;
6. Reduce light pollution on site through use of warm colored lighting that is directed towards the ground and shielded from the sky;
7. Permit expiration date is December 31st, 2027; and
8. Any other conditions the Planning Commission deems necessary.

Bill Davis expressed concern about condition #4 and felt that this condition is too restrictive. There was discussion regarding how restrictive this should be and the feeling was to not have the Colony enter into the retail concrete business. Joel Hildebrandt disagreed, pointing out that the concrete plant is for production of concrete wall panels and that is what is being permitted; producing and selling concrete off-site is a completely different business than what is being requested with this Interim Use Permit. Jenny Mongeau pointed out that Condition #4 would restrict the Applicant from using their own concrete for their own needs. Curt Stubstad also agreed that the verbiage should be changed to allow them to use their own concrete without putting them in the ready-mix business. There was also discussion about the effects of trucks hauling concrete in addition to the current truck traffic. Director Jacobson stressed that the Applicant has stated that they will need all the concrete they produce for their onsite pre-cast business and currently have no intentions of producing enough concrete to sell commercially. Director Jacobson suggested changing the Permit expiration date and there was much discussion about what is an acceptable expiration date.

Steve Lindaas recommended an environmental study be completed at some point if the facility were to expand further and Bill Davis concurred. Director Jacobson advised that he understands that Taracon does intend to proceed with an environmental study prior to any further expansion.

On motion by Joel Hildebrandt, seconded by Jenny Mongeau, and passed by majority with Steve Lindaas opposing the Motion, the Planning Commission *GRANTED* the Interim Use Permit for a batch plant, to include the following conditions:

- 1. Operate within provisions of the Clay County Land Development Code;**
- 2. Provide proof of additional local, state, and federal permits, as required, to the Clay County Planning Office;**
- 3. Maintain and control dust on interior roads and laydown yards, and adjacent exterior**
- 4. All concrete produced on site must be used in the applicant's manufacturing processes. Sale of ready-mix concrete is prohibited.**
- 5. Reduce light pollution on site through use of warm colored lighting that is directed towards the ground and shielded from the sky.**
- 6. Permit expiration date is December 31, 2032.**

SPRING PRAIRIE HB, INC. – REQUEST FOR INTERIM USE PERMIT

The applicant is seeking an interim use permit for an intentional community on parcel 27.014.1700, Section 14, Township 140N, Range 46W, Spring Prairie Township.

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

Matt Jacobson, Planning Director, advised that this request is to allow for residential housing for this 634-acre parcel for an existing Intentional Community. Intentional Community definition is: “voluntary residential communities that are designed from the start to have a high degree of social cohesion and teamwork. A person or family may choose to reside in an Intentional Living Community for social, political, religious, or spiritual reasons, amongst others. A common example in Minnesota is a Hutterite colony.”

The intention for this request is to develop accommodating housing that fits the needs of the Colony and works within the Development Code.

Policy Considerations from the Comprehensive Plan include:

- **Housing**
 1. Support additional options that give people in all life stages and of all economic means viable choices for safe, stable and affordable homes.
 2. Promote a diverse housing supply to provide residents with a range of housing options for those in need.
- **Agriculture**
 1. Support the long-term protection of the County's strong and diverse agricultural economy.
 - a. Maintain an environment that supports agriculture at all scales throughout the County.
 - b. Recognize and support the agricultural character of the County in all planning efforts.
 - c. Ensure that all new development is compatible with the character and quality of the County's agricultural areas.
- **Land Use Residential**
 1. Promote and encourage quality and diversified residential development in the incorporated communities of Clay County.

2. Provide opportunities for quality rural residential development in Clay County.
 - d. Avoid or mitigate residential development on or near environmentally sensitive lands or lands with high quality natural resources.
 - e. Promote the use of community or cluster wastewater systems for residential development clusters.
 3. Recognize the diversity of living and working arrangements in the unincorporated areas of Clay County.
- **Prairies and Woodlands**
 2. Grow and restore prairie and woodland areas in Clay county for the benefit and enjoyment of Clay County businesses, residents, and visitors.
 - a. Encourage agricultural, commercial, industrial, and residential development to establish prairie and/or woodland areas on properties to provide ecosystem services such as erosion and flood control, through assessment, permitting, tax, and zoning programs and incentives.

Intentional Community Standards from the Clay County Development Code include:

1. **Interim use:** Intentional Communities shall be processed as an interim use permit, meeting the requirements of this section in addition to the general requirements for an interim use permit a site plan shall be submitted with the interim use permit application showing the location of all existing structures and uses on the parcel.
2. **General restrictions:** This use supports multi-family residential development and non-commercial uses incidental to operations of the development so long as all activity is self-managed by an incorporated development organization consisting of a majority of the intended number of residents of the development. At a minimum, an Intentional Community must consist of at least 1 (one) residential structure, or two (2) residential dwelling units and a common structure.
3. **Minimum Lot Size:** The minimum lot size required for an Intentional Community shall be 40 acres.
4. **Density Maximum:** There shall be no more than 7 dwelling units per acre.
5. **Requirements for Residential Structure:** All residential structures must not include more than 40 dwelling units per structure.
6. **Requirements for a Common Structure:** All Intentional Living Communities must include a centrally located common structure – such as a meeting house, community hall, etc – that is detached from all residential structures.
7. **Minimum Open Space Requirements:** Any parcel featuring an Intentional Community use shall have at minimum 50% of land dedicated as open space. This requirement is inclusive of all additional uses occurring in combination with the Intentional Community use.
8. **Non-Residential Uses:** All non-residential uses on parcels that occur in combination with an Intentional Living Community are subject to the requirements of the Clay County Development Code.
9. **Management Plan:** The development organization responsible for the Intentional Living Community, as defined by Part C of this section, shall submit a management plan along with the required site plan for the interim use permit application that includes the following:
 - a. A description of all non-commercial uses incidental to the operation of the community
 - b. A description of any commercial uses to occur in combination with the Intentional Community
 - c. Guidelines for the maintenance and operations of any transportation infrastructure that might be utilized by the general public, and any private utilities including drinking water, stormwater and wastewater management.

- d. A statement acknowledging an understanding that changes to the management plan or site plan may trigger an environmental review under Minnesota Rules 4410.

The proposal is for one 4-sided multi-family housing structure constructed in four phases. Total residential units will be less than 150 with the final number to be determined by architectural designed structure. There will be additions to 3 legs of the Community Center. A new K-12 school building will be added with parking and playground areas. Support structures to the community living operations will be included, such as greenhouses, outbuildings and storage buildings. There will be large areas of open space.

Facilities to be Removed/Relocated/Replaced include:

- All existing housing
- Greenhouse
- Temporary modular schools
- Temporary modular office
- Dining hall
- Old dairy barn
- Meat processing building
- Steel shop, also used by Spring Prairie Electric
- Grain handling and storage facilities

The compatibility with the County Standards were reviewed and include:

- A common structure and multiple residential living units – *central community center and up to 149 residential units*
- Minimum lot size of 40 acres – *proposed dedicated space is roughly 95-acre tract*
- Maximum density of 7 dwelling units per acre – *proposed is less than 2 per acre*
- Residential structures must not include more than 40 dwelling units per structure – *proposed are 4 structures, each containing less than 40 units*
- Community center is *detached from the residential structures*
- Community living area shall have a minimum of 50% open space – *proposed open space well exceeds this criteria*
- A site management plan was developed

There was clarification on the housing unit exhibit D. Management plan identified up to 149 units with a maximum of 4 floors per structure.

The proposed living facility structures was reviewed. Spring Prairie Colony was established in the late 1970s and would be the 8th most populated community in Clay County if they incorporated. The Community generates considerable traffic. Public infrastructure for stormwater, wastewater, drinking water supply are all permitted at state level. Solid waste must be disposed of at permitted facility (e.g., Clay County Sanitary Landfill). Maintain rural character of Clay County – this is already a densely populated and industrial area and minimizing lighting, employing screening and architectural design will minimize impacts to the rural character of the area. The Agassiz Beach Ridge is an environmentally sensitive area with important migratory bird flyway, sensitive prairie and wetland habitat and important sand and gravel resources in the area.

Bill Davis pointed out that the important aggregate resources and the important environmental resources of the Agassiz Beach Ridge seem to be in conflict. Director Jacobson advised that is why it is important to use a managed growth strategy.

Brad Eldred asked if Glyndon or Hawley Fire Department were consulted regarding fire protection/suppression systems with the ongoing growth at the Colony and to see if they had any input on this. Director Jacobson advised that he has discussed this with the Applicant and also discussed the potential need of emergency services getting to the proper location on this large parcel in the event of an emergency.

Jenny Mongeau asked if the size of the residential buildings would require them to have mandatory sprinklers. Director Jacobson agreed and stated that there have also been conversations with the Sheriff's office about making sure that emergency radios would be able to work within these large concrete structures.

Applicant Ross Eberle stated that the four living structures would be built in phases, with construction beginning on the west side, and relocating the school that is there and that there would be temporary modular buildings for the school and pre-school. The buildings will be non-combustible materials as they will be constructed using the precast wall panels from Taracon.

Steve Lindaas asked about the education opportunities. They currently have a partnership with the Hawley School District for pre-school and elementary school. This can be expanded once they have the building structure capacity. Mr. Lindaas also asked about screening and was advised there are plans for shade and screening.

Bill Davis asked if there was any intention to apply to the State for an incorporated city. Mr. Eberle advised that right now they intend to work with the County to be compliant and proceed forward with the Intentional Living Community plans.

There were no public comments.

Staff recommended Conditions:

1. Operate within provisions of the Clay County Land Development Code;
2. Provide proof of additional local, state and federal permits, as required, to the Clay County Planning Office;
3. Provide any updates to the intentional community management plan to the Clay County Planning Office.
4. Maintain and control dust on interior and adjacent exterior (170th Str and 70th Ave) roads that service the intentional community;
5. Establish screening between the intentional community and industrial uses to reduce noise, dust and visual impacts on Colony members.
6. All structures must be compatible with the Minnesota State Building Code.
7. Reduce light pollution on site through use of warm colored lighting that is directed towards the ground and shielded from the sky
8. Utilize bird safe glass on exterior windows
9. Consider establishing native prairie vegetation and/or pollinator habitat in open space areas; and
10. Any other conditions the Planning Commission deems necessary.

On motion by Curt Stubstad, 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 Steve Lindaas, seconded by Curt Stubstad, and unanimously carried, the Planning Commission **GRANTED** the Interim Use Permit for an Intentional Living Community with the following Conditions:

1. Operate within provisions of the Clay County Land Development Code.
2. Provide proof of additional local, state and federal permits, as required, to the Clay County Planning Office.
3. Provide any updates to the Intentional Community management plan to the Clay County Planning Office.
4. Maintain and control dust on interior and adjacent exterior (170th Street and 70th Avenue) roads that service the Intentional Community
5. Coordinate with public safety officials (law enforcement, fire, EMS)
6. All structures must be compatible with the Minnesota State Building Code
7. Reduce light pollution on site through use of warm colored lighting that is directed towards the ground and shielded from the sky
8. Utilize bird-safe glass on exterior windows
9. Consider establishing native prairie vegetation and/or pollinator habitat in open space areas

There was a five (5) minute break.

DUSTIN AND SARA HOUGH – REQUEST FOR CONDITIONAL USE PERMIT

The petitioner is seeking a conditional use permit for a commercial storage business at 15432 90th Ave S, Barnesville, MN 56514, parcel 05.022.2802 in part of the S1/2 of the SE1/4 NW1/2 of Township 138N, Range 46W, Section 22, Elkton Township.

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

Matt Jacobson, Planning Director, states the request is for a 28-unit commercial storage facility on the east side of Downer. There was a previous hearing on this property to remove the Resource Protection-Aggregate overlay.

Policy Considerations include:

- **Land Use: Commercial & Industrial**
- #1 Encourage commercial and industrial development that is in harmony with the agricultural and rural character of Clay County.
 - a. Promote value-added agricultural commercial and industrial development in Agricultural Service Center areas and along transportation corridors and hubs.
 - b. Avoid or mitigate against commercial and industrial development in and near environmentally sensitive areas.
 - c. Avoid or mitigate against commercial and industrial development that increases the potential for land use conflicts with rural residential or agricultural uses.

This is a 15.8-acre commercial agriculture and residential parcel. The Applicants are seeking approval for a CUP to establish a 28-unit commercial storage facility. Photographs show an already poured pad for the building. Since the concrete has been poured, this would make this request an after-the-fact request. "Definition of Start of Construction" from the Development Code was reviewed. There was discussion if more than one (1) acre of land has been disturbed. An aerial map showed the location of the intended location of the facility. The property is located just east of the Townsite of Downer on CSAH 10. Any new accesses would need to be approved by the Highway Department. If there is more than an acre of dirt disturbed relative to the construction project, a stormwater management permit would need to be secured from the Minnesota Pollution Control Agency.

Dustin Hough stated that he thought the last meeting was for permission to place the facilities and did not realize that he would still need a Conditional Use Permit hearing before getting a Building Permit. He states that he is 126 feet from the roadway. He advises he misunderstood the process and was surprised when he received the notice that he needed the Conditional Use Permit. The building is 40 x 140 (5600 sq ft), with each unit being 10'x20' with an 8'x7' overhead door.

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

Staff Recommended Conditions include:

1. Applicant shall obtain all applicable local/State/Federal permits/reviews, including but not limited to a Construction Stormwater Permit and a Highway Access Permit for new or modified access.
2. Outdoor storage shall not be allowed.
3. Days and hours of operation shall be year-round, open 24 hours, seven days a week.
4. Units shall be used for storage only. No business or commercial enterprise shall be conducted out of a storage unit.
5. Buildings shall have appropriate lighting for security and minimizes light pollution through warm color bulbs and shielding.
6. Detailed site plan indicating exact location of building submitted to Planning Office.

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 Steve Lindaas, seconded by Curt Stubstad, and unanimously carried, the Planning Commission *GRANTED* the Conditional Use Permit with the following conditions:

1. Applicant shall obtain all applicable local/State/Federal permits/reviews, including but not limited to a Construction Stormwater Permit and a Highway Access Permit for new or modified access.
2. Outdoor storage shall not be allowed.
3. Days and hours of operation shall be year-round, open 24 hours, seven days a week.
4. Units shall be used for storage only. No business or commercial enterprise shall be conducted out of a storage unit.
5. Buildings shall have appropriate lighting for security and minimizes light pollution through warm color bulbs and shielding.
6. Detailed site plan indicating exact location of building to be submitted to Planning Office.

HOUGH INC OF DETROIT LAKES – REQUEST FOR INTERIM USE PERMIT AMENDMENT

The applicant is seeking approval of an amendment to the haul route condition on an interim use permit for 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 Joel Hildebrandt, seconded by Jenny Mongeau, and unanimously carried, the Planning Commission opened the public hearing.

Matt Jacobson, Planning Director, advised that this is an amendment to a gravel mining Interim Use Permit granted in December 2021.

Policy Considerations include:

- Land Use: Agricultural
 1. Recognize and protect the agricultural character of Clay County.
 - b. Protect prime agricultural soils from commercial, industrial and residential development.
- Land Use: Commercial and Industrial
 1. Encourage commercial and industrial development that is in harmony with the agricultural and rural character of Clay County.
 - c. Avoid or mitigate against commercial and industrial development that increases the potential for land use conflicts with rural residential or agricultural uses.
- Transportation: System
 1. Maintain and operate an accessible, safe and efficient transportation system for the movement of people and goods throughout Clay County.
 - a. Continue to monitor quality and safety of Clay County transportation infrastructure and coordinate with applicable local, state, and federal agencies to improve the transportation system across Clay County.
- Natural Resources and the Environment: Aggregate Resources
 1. Foster a balanced approach to aggregate resource extraction that is compatible with the natural resources and the rural character of Clay County.
 - A. 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.

This CUP mine permit was previously held by Marks Sand & Gravel and the applicant had previously come for a Permit in December 2021, as they had exceeded the allowable mineable acreage. The zoning on this parcel is Agricultural General (AG), Resource Protection-Aggregate (RP-Agg) and Resource Protection-Biological (RP-Bio). This is an allowable use with an interim use permit and mandatory EAW in Resource Protection-Biological on this 217 combined acres (between the 2 parcels). The property is currently used for agriculture and mining purposes.

There were 15 conditions on the previous Permit:

1. Operate with 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 and 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 and 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 the Wetland Conservation Act.
7. Operator is 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 the Planning Office indicating exact area to be mined, current 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 hauling 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.

The Applicant is seeking to amend condition #14 from "Primary haul route shall be 150th Ave S to CSAH 25 to Highway 34" to "Primary haul route shall be 210th Str S to State Highway 34". The Applicant is making this request as 150th Avenue South is a minimum maintenance road that is unable to support the heavier truck traffic that potentially could be generated from the gravel pit. They were previously maintaining 210th street under their 2001 Conditional Use Permit (CUP). At that CUP hearing, there were concerns from adjacent landowners regarding truck traffic speeds, noise, safety and dust. Due to these concerns, the Planning Commission imposed Condition #14 and there was no opposition from the Hough representative at that time.

Since the IUP was received, Hough Inc owner Mike Hough and Supervisor Rick Nelson reached out to Humboldt Township. Humboldt Township agrees that requiring Hough to use 150th Ave S instead of 210th Str S was unreasonable as they had already worked to improve the condition of 210th Street. To mitigate concerns, Hough Inc proposed to limit their truck speeds to 20 mph along 210th Str as well as apply dust control as needed.

The Township and the Highway Department both felt that 150th Ave S is not adequate to support the haul traffic. There are also at least three residential structures close to this roadway and all have minimum to no screening. Chair Baer asked if the dust maintenance would be the entire 2 miles of the roadway or just in front of the houses. Engineer Justin Sorum confirmed that the County does the maintenance on this roadway.

Joel Hildebrandt expressed concern about the residences along this proposed route and the impact of haul traffic on them.

Jenny Mongeau stated concerns about enforcement of the proposed 20 mph speed limit; Director Jacobson advised that this speed limit was proposed by the Applicant. There was discussion regarding the dust control application, the frequency of those applications, and what types of applications. Engineer Sorum advised that the dust control application would be required for one mile of roadway and water during dry times for best control. Both Joel Hildebrandt and Ezra Baer stated that they have worked with Mr. Hough and he is good for his word if he states his trucks will be hauling at 20 mph.

The impact to the homeowners in the residences along the requested haul road was discussed. The previous permit was granted with the haul route not impacting these residences and now these residences will experience a lot of traffic.

Mike Hough of Hough Inc apologized for his representative not addressing this issue in December. He expressed concern for the residents along the proposed roadway and also advised they would talk to Humboldt Township. They had allowed other haulers to use their pit in 2021 and understand that it was not a good situation for the area residents. The homeowners were advised by mail of this Public Hearing and Director Jacobson also reached out and visited some of those residents as well. Steve Lindaas asked if they do much hauling on Saturdays; Mr. Hough indicated that they do not do much Saturday hauling and Saturdays are primarily used if they have been rained out for the majority of the week. There was discussion about standardized hauling hours.

On motion by Bill Davis, seconded by Curt Stubstad, 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 Steve Lindaas, seconded by Bill Davis, and unanimously carried, the Planning Commission GRANTED the amendment to the Interim Use Permit, to 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 by the application of calcium or magnesium chloride and water when other dust control methods are ineffective 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 and 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 County Health Department.
11. Operator to present a detailed mining plan to Planning Office indicating exact areas 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 thru November, hours for mining and screening and hauling shall be limited to 7:00 AM to 7:00 PM Monday through Friday and 7:00 AM to 2:00 PM Saturday.
13. Permit shall expire in 15 years, on December 31, 2036.
14. Primary haul route shall be 210th Street South to State Highway 34. All haul trucks loaded and empty must maintain 20 mph speed on 210th Street South.
15. Applicant shall consider combination of the two parcels to eliminate the need for a future Variance for mining into the property line setbacks.

ANDREAS OMEROVIC – REQUEST FOR CONDITIONAL USE PERMIT

The petitioner is seeking a conditional use permit for a warehousing and wholesale business at 13345 90th Ave S, Sabin, MN 56580, parcel 05.020.3001 in part of the N1/2 of the SW1/4 of Township 138N, Range 46W, Section 20, Elkton Township.

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

Matt Jacobson, Planning Director, stated that the request is for a warehouse and wholesale business for Beyond Auto Core, owner Andreas Omerovic.

Policy considerations include:

- **Land Use: Commercial & Industrial**
 - #1 Encourage commercial and industrial development that is in harmony with the agricultural and rural character of Clay County.
 - a. Promote value-added agricultural commercial and industrial development in Agricultural Service Center areas and along transportation corridors and hubs.
- **Transportation: Freight**
 - #1 Support the movement of freight across Clay County roadways.
 - a. Coordinate with local jurisdictions and use proper planning and zoning methods to locate industrial and commercial developments on or near roadways that can handle heavy commercial truck traffic.

The parcel is a 12.59-acre parcel in Elkton Township off of CSAH 10 and I-94. It is currently used as a residence and zoned Agricultural General and will be used as a residence and warehouse for wholesale storage.

The existing 50'x100' storage building will be used for the warehousing and storage of Business to Business B2B automotive parts.

Andreas Omerovic advised the property will be used for storing rebuilt turbos and catalytic converters. Customers will ship the parts to him and then he will ship them off to another site. He stated that his parents will be living at the residence onsite and using the property for farming/gardening.

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

Staff-recommended Conditions include:

1. Applicant shall obtain all applicable local/State/Federal permits/reviews (i.e., septic system, storm water pollution Protection Plan (MPCS), WCA review, etc.) before any construction and shall provide copies to Planning Office.
2. Outdoor storage of materials shall not be allowed.
3. Buildings shall have appropriate lighting for security that minimizes light pollution through warm colored bulbs and shielding.
4. Permit is only for warehousing and wholesaling. No processing or production of materials can occur onsite.
5. Any other conditions the Planning Commission deems necessary.

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 Steve Lindaas, seconded by Curt Stubstad, and unanimously carried, the Planning Commission *GRANTED* the Conditional Use Permit with the following conditions:

1. Applicant shall obtain all applicable local/State/Federal permits/reviews (i.e., septic system, Storm Water Pollution Protection Plan (MPCA), WCA review, etc before any construction and shall provide copies to Planning Office.
2. Outdoor storage of materials shall not be allowed.
3. Buildings shall have appropriate lighting for security that minimizes light pollution through warm colored bulbs and shielding.
4. Permit is only for warehousing and wholesaling. No processing or production of materials can occur onsite.

JASON GEHRIG – PETITION FOR REZONING

The petitioner is seeking a rezone to remove the Resource Protection – Aggregate Overlay Zoning District on parcel 28.021.2200 in part of the W1/2 of the NW1/2 of Township 137N, Range 44W, Section 21, Tansem Township.

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

Matt Jacobson, Planning Director, states this petition is for rezoning this approximately 81-acre parcel for a future residential subdivision in the Shoreland area, and the request is to remove the Resource Protection-Aggregate overlay. The current zoning is Agricultural General (AG), with Resource Protection-Aggregate (RP-Agg) overlay and Shoreland: Special Protection. Current land use is gravel mining and agricultural. The RP-Agg covers the entire parcel. When you have an overlay district over a zoning district, the most restrictive zoning would apply. The Aggregate Resource potential of the County was reviewed. Residential subdivisions are not permitted in RP-Agg overlay areas.

A review was done of Zoning Overlay Districts from the Development Code:

- **8-5C-3: RELATIONSHIP OF RESOURCE PROTECTION OVERLAY DISTRICTS TO OTHER ZONING DISTRICTS:**
- The three Resource Protection districts are overlay districts. These districts overlay other underlying zoning districts such as the AG districts. The requirements of the overlay districts in this Article provide regulations that shall apply to structures and the use of land in addition to the regulations of the underlying zoning districts. **Where requirements in this Article impose greater restrictions than the underlying zoning district, the provisions of this Article shall apply.** Two overlay districts may occur in the same area, for example significant biological resources may be present in a wellhead protection area. **Where two overlay districts occupy the same area, the requirements that impose greater restrictions shall apply.**

There is an estimated 47,796 acres, or 7%, of Clay County that has a high or moderate aggregate potential, per the Clay County Aggregate Resource Inventory created by the Department of Natural Resources. It is likely that the potential could be much higher but the numbers are reflective of study limitations. A map was reviewed showing the parcel location within the mapped area of high potential.

Rezoning Considerations:

- Removing the Resource Protection-Aggregate Overlay on this property would not result in loss of access to aggregate resources in the Shoreland: Special Protection Zoning District as extractive uses are prohibited in shoreland areas. Director Jacobson stressed that removing the RP-Agg overlay does not remove the potential possibility for future mining.
- The current gravel pit operator (Asplin) intends to cease operations by 2023 as they believe all the material will be mined out of the pit on the north end of the property. They have done boring samples on the property.
- The DNR estimates that aggregate potential is high on the property. The entire parcel has been prospected and there are no plans to expand gravel mining activities due to lack of useable materials (according to current operator). There are several bore holes on the property.

The previous owner did try to sell this parcel to the County Highway Department for its gravel resources.

The request in front of the Planning Commission at this time is to make recommendation to the Board of Commissioners to remove the RP-Agg zoning on this property. This property is on Solem Lake. There is a subdivision directly to the south and the remainder of the lake does not have much development.

Steve Lindaas asked what would happen if there was a residential subdivision created and then later a request was made for aggregate extraction. Director Jacobson indicated that removing the RP-Agg overlay would open up the entire parcel for subdivision development and there would be residential setbacks for aggregate extraction that would need to be followed. Solem Lake is a Natural Environment Lake and has a 200-foot structure setback. There are significant slopes on the south end of the property near the shoreland.

Applicant Gehrig was represented by civil engineer Jon Lowry. Mr. Lowry stated that they would put in a road with a cul-de-sac with 90,000 square foot lots on the north side of the road and 160,000 square foot lots on the south side. The operator has 2 years to reclaim the mined pit on the north end of the property and it will be returned to agriculture (possibly hay land).

On motion by Steve Lindaas, seconded by Curt Stubstad, 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. Findings of Fact and Order set out the concerns and discussions.

On motion by Bill Davis, seconded by Steve Lindaas, and unanimously carried, the Planning Commission *RECOMMENDED APPROVAL* to the Board of Commissioners to remove the RP Aggregate overlay.

UNFINISHED BUSINESS:

- Resource Protection – Aggregate Overlay Subcommittee: There has been a committee formed to review the RP-Agg Overlays within areas that are not mineable. The Ordinance states that subcommittees meetings are the 2nd Tuesday of the month. Director Jacobson asked if days or evenings would be preferred. The meeting time was decided for 5:30 PM on July 12th.

NEW BUSINESS:

Due to having 6 hearings already scheduled for the July 19th meeting, it was proposed that the Planning Commission begin at 5:30 PM that evening as there will not be a Board of Adjustment meeting that evening. All agreed for having the July 19, 2022 meeting start at 5:30 due to the full Agenda. As the Public Hearing Notices have already been sent to print, both The Forum and The Clay County Union will be contacted by phone first thing tomorrow to advise of this time change.

ADJOURNMENT:

On motion by Jenny Mongeau, seconded by Joel Hildebrandt, and unanimously approved, the meeting adjourned at 10:00 pm.


Laura Johnson, Planning Commission Secretary