

**MINUTES
CLAY COUNTY PLANNING COMMISSION MINUTES
5:30 TUESDAY, JULY 19, 2022
THIRD FLOOR BOARD ROOM, CLAY COUNTY COURTHOUSE**

Members Present: Ezra Baer, Brent Berg, Bill Davis, Commissioner Frank Gross (for Jenny Mongeau), Brad Eldred, Laura Johnson, Joel Hildebrandt

Members Absent: Curt Stubstad, Andrea Koczur, Steve Lindaas

Others Present: Matt Jacobson, Erika Franck, Michael Leaser, Rita Rueckert, Rick Larson, Elaine Larson, Joe Johnson, Jesse Johansen, David Sogn, Jeff Rehder, Chad Lofton, Charlie Lofton

ROLL CALL:

Attendance was recorded by Chair Ezra Baer and meeting called to order at 5:30 PM.

APPROVAL OF AGENDA:

It is noted that the American Waterworks/Marc Phyllis Nelson Trust hearing has been withdrawn. On motion by Bill Davis, seconded by Brad Eldred, and unanimously carried, the amended Agenda was approved.

APPROVAL OF MINUTES FROM JUNE 28, 2022 MEETING:

On motion by Joel Hildebrandt, seconded by Brad Eldred, and unanimously carried, the Planning Commission approved the June 28, 2022 Minutes.

CITIZENS TO BE HEARD:

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

INTRODUCTION:

Matt Jacobson introduced Michael Leaser as the County Attorney who will now be handling the land records departments within the County and will be representing the County Attorney's office at future Planning Commission and Board of Adjustment hearings.

PUBLIC HEARINGS:

CHAD LOFTON – REQUEST FOR CONDITIONAL USE PERMIT

The applicant is seeking approval of a conditional use permit to allow a basement in the Flood Fringe Zoning District at 19335 5th St N, Georgetown, MN 56546, parcel 09.008.4101, part of the N1/2 of the SE1/4, Section 8, Township 142N, Range 48W, Georgetown Township.

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

Matt Jacobson, Planning Director, advised this request is for a residential basement in the Flood Fringe Zoning District. This parcel is a 3.5-acre parcel, which has been split from an 11.7 commercial parcel containing a private airstrip. The current use is Commercial due to the airstrip. The future use will be residential. Clay County is one of 8 communities in Minnesota that would allow for a basement to be constructed below the regulatory flood protection elevation due to a waiver from FEMA. The request is for relocating a flood buyout residential dwelling to the parcel. The dwelling would require a basement or crawlspace as slab on grade would not work for this structure. Regulatory Flood Protection Elevation for this parcel is 881.4 feet.

Comprehensive Plan Policy Considerations include:

Natural Resources and Environment – Floodplains

1. Foster a community resilient to impacts of flooding through targeted mitigation planning and implementation for the benefit of Clay County residents, agriculture and industry.
 - a. Discourage inappropriate development in flood hazard areas.
 - b. Continue to assess flood risk by determining past and future damage potential.

Development Code Standards include:

D. Standards for Conditional Uses in the FF Flood Fringe District:

- **Conditional uses:** Any structure that is **not elevated on fill or floodproofed**...shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in Section 8-4-7 of this Ordinance.
- **BASEMENT:** (residential and non-residential) Any area of a structure, including crawl spaces, having the upper surface of its floor or base subgrade (below ground level) on all four (4) sides, regardless of the depth of excavation below ground level.

Residential basements, as defined by Section 8-8-2 may be constructed below the regulatory flood protection elevation if in compliance with the FP-1 floodproofing classification *i.e., a W1 space) of the Minnesota State Building Code and in accordance with the following minimum requirements, consistent with 44 Code of Federal Regulation 60.6(c):

- i. Flood depth: Flood depths shall not be more than five feet for developable lots that are contiguous to land above the 100-year flood or three feet for other lots;
- ii. Flood velocity shall be limited to five feet per second;
- iii. Flood warning time shall be at least 12 hours. Flood warning times of two hours or greater may be approved if the community demonstrates that it has flood warning system and an emergency plan in operation that is adequate to ensure safe evacuation of affected residents.

This property meets all these criteria.

iv. Basement structural requirements:

1. Basements shall be designed and constructed so that any basement area, utilities and sanitary facilities below the floodproofed level would be floodproofed in accordance with the FP-1 floodproofing classification (e.g., watertight with walls impermeable to the passage of water without human intervention);
2. Basement walls shall be built with the capacity to resist the hydrostatic and hydrodynamic loads as

well as the effects of buoyancy resulting from flooding to the floodproofed design level and shall be designed so that minimal damage will occur from floods exceeding that level.

3. Floodproofing design level shall be an elevation no lower than the regulatory flood protection elevation where the difference between the 100-year flood and the 500-year flood levels is set three feet or less and two feet above the 100-year flood level where the difference between the 100-year flood and the 500-year flood levels is greater than three feet.
- v. The top of basement floor shall be no lower than five feet below the Regulatory Flood Protection Elevation.
- vi. Fill:
 1. The area surrounding the structure must be filled to the 100-year flood level plus one (1) foot higher on all four sides;
 - Fill must be compacted; and
 - Slopes must be protected by a vegetative cover.
- vii. A registered professional engineer or architect shall develop or review the building's structural design, specifications, and plans, including consideration of depth, velocity, and duration of flooding and type and permeability of soils at the building site, and certify that the basement design and methods of construction proposed are in accordance with accepted standards of practice for meeting the provisions of this paragraph; and
- viii. The community building inspector or authorized representative shall inspect the structure to verify that it meets the provisions of this section.

Ezra Baer inquired about the Applicant's understanding of all of the requirements and Director Jacobson advised there has been extensive conversations and that the Applicant does have an engineer working with him on the design of the basement.

Site Elevations are 878-880 on the property. The base flood elevation is 880 feet above sea level. The Regulatory Flood Protection elevation is 881.5 feet. The basement floor elevation requirement would be 876.5 feet.

Aerial mapping of the Applicant property showed past floods of 1997 and 2009 and the parcel was not shown as impacted on either map. Soils in this area are mainly Fargo Silty Clay with poor hydraulic conductivity (0.028 ft/day).

Chad Lofton was asked by Chair Ezra Baer if he has a clear understanding of the requirements for placing a basement on this property. Mr. Lofton advised he was working with Camrud Foss and the contractor and understands the requirements. Director Jacobson stressed that working with the engineer on the front-end to build to specs will greatly assist the Applicant to properly proceed and should also give him the opportunity for a flood insurance discount. Chair Baer asked Director Jacobson if the FM Diversion would have any impact on this property, and Director Jacobson felt the property was too far north.

On motion by Joel Hildebrandt, seconded by Brad Eldred, 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 Applicant shall submit a building permit meeting the residential basement standards for conditional uses in the FF Flood Fringe District;
- 2 Applicant shall obtain a residential basement floodproofing certificate;
- 3 The top of the basement shall be no lower than 876.5 feet;
- 4 Any other conditions the Planning Commission deems necessary.

On motion by Joel Hildebrandt, seconded by Bill Davis, and unanimously carried, the Planning Commission *GRANTED* the Conditional Use Permit with the following conditions:

1. Applicant shall submit a building permit meeting the residential basement standards for conditional uses in the FF Flood Fringe District.
2. Applicant shall obtain a residential basement floodproofing certificate.
3. The top of the basement shall be no lower than 876.5 feet.

DISPOSAL SERVICE, INC. – REQUEST FOR INTERIM USE PERMIT

The applicant is seeking an interim use permit for concrete crushing at 367 16th St N, Glyndon, MN 56547, parcel 25.003.1800, part of the E1/2 of the NE1/4 and NE1/4 of the SE1/4 Section 3, Township 139N, Range 46W, Riverton Township.

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

Matt Jacobson, Planning Director, advised this request is for an Interim Use Permit to allow for a temporary concrete crushing and stockpiling of recycled concrete. This is a demolition landfill used by residents of Clay County. The parcel is 97.6 acres. The current use is demolition landfill and there is a scale house located onsite. Zoning is Agricultural General (AG) and Resource Protection-Aggregate (RP-Agg). The request is an allowable use within these zoning districts with an approved Interim Use Permit.

Policy Considerations include:

Land Use: Commercial and Industrial

- 1. Encourage commercial and industrial development that is in harmony with the agricultural and rural character of Clay County.
- 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.

Natural Resources and the Environment: Aggregate Resources

- 2. 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.
 - b) Avoid or mitigate against impacts to groundwater, surface water, native prairie, woodlands, and

- wetlands for new or expanding mining operations.
- d. Consider the cumulative impacts of existing nearby mining operations for new or expanding operations on the environment, agricultural lands, residential areas, and transportation infrastructure.

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.

The Applicant intends to hire Aggregate Industries to crush, stockpile and sell recycled concrete on the property. Crushing concrete will occur on-site with potential to cause off-site noise to nearby residences. There are no set standards in the Clay County Code for cycling operations. There are set standards for concrete batch plants and extractive uses; the setbacks required for each from a residence are ¼ mile for a concrete batch plant and 500 feet from extractive mining.

Access would be on 160th Street North to Highway 10. This is in the same area that is being used as the demolition landfill. Applicant requests the Permit be terminated when the stockpile has been completely sold from the site.

Joel Hildebrandt asked if the roadway could handle the weight of this traffic. Director Jacobson believes that the concrete to be crushed is already stockpiled onsite.

Applicant Joe Johnson from Aggregate advised that the demolition rubble is already onsite so they would just be crushing and stockpiling what is there. They feel it will take approximately 2 weeks working sun-up to sundown to complete the approximately 20,000 tons to crush and hope to have all product sold off within 1-2 years.

On motion by Bill Davis, seconded by Brad Eldred, 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. Permit shall terminate when the applicant notifies the Planning & Zoning Department of the removal of the crushed concrete stockpiles or **December 31, 2025**, whichever comes first.
2. Operate within provisions of the Clay County Land Development Ordinance.
3. Operator shall control dust on site through the development and implementation of a fugitive dust management plan, the application of dust control in front of residence(s) located along the access road and coordinate maintenance on any/all gravel haul roads with the Clay County Highway Department.

4. 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.
5. Operations must comply with all provisions of Wetlands Conservation Act.
6. Crushing may occur March through December, Monday through Friday, from 7 a.m. to 7 p.m.
7. 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.

Chair Baer asked Director Jacobson if the road will require dust control as it is heavily vegetated. Director Jacobson advised that there may be some dust control needed during the time of the permit.

On motion by Kurt Skjerven, seconded by Brad Eldred, and unanimously carried, the Planning Commission *GRANTED* the Interim Use Permit with the following conditions:

1. Permit shall terminate when the applicant notifies the Planning and Zoning Department of the removal of the crushed concrete stockpiles of December 31, 2025, whichever occurs first.
2. Operate within provisions of the Clay County Land Development Ordinance.
3. Operator shall control dust on site through the development and implementation of a fugitive dust management plan, the application of dust control in front of the residence(s) located along the access road and coordinate maintenance on any/all gravel haul roads with the Clay County Highway Department.
4. 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.
5. Operations must comply with all provisions of Wetland Conservation Act.
6. Crushing may occur March through December, Monday through Friday, from 7:00 a.m. to 7:00 p.m.
7. 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.

DUSTIN AND JESSICA GREEN – REQUEST FOR INTERIM USE PERMIT

The applicant is seeking approval of an after-the-fact interim use permit to allow for a second dwelling on a parcel at 17629 220th St N, Ulen, MN 56585, part of the W1/2 of the NE1/4 W1/2 NE1/4 and part of the west part of the NW Quarter of the Southeast Quarter (NW1/4SE1/4), Township 142, Range 45W, Section 23, Hagen Township.

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

Matt Jacobson, Planning Director, advised the request is for two residences on a parcel to be occupied by relatives of the owner. The property currently contains a mobile home and an unpermitted 32'x20' cabin. The zoning is Agricultural General (AG), Resource Protection-Aggregate (RP-Agg), Shoreland, Special Protection Rivers and Streams (SP-Rivers & Streams).

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.
 - a. Explore standards that promote a diversity of housing types for new housing development throughout the County.

Land Use: Residential

2. Provide opportunities for quality rural residential development in Clay County.
 - a. Implement residential density standards that allow for rural residential development while retaining the rural character of Clay County.

Clay County Land Development Code Standards include:

Section 8-5-6E

8. 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) additional dwelling shall be allowed on a parcel
 - f) Parcel must be at least five (5) acres in size

In this after-the-fact request the Applicant has a cabin with septic and water and the landowners parents reside in the onsite-mobile home. The cabin is currently used only seasonally but does have the opportunity to be used year-round.

Joel Hildebrandt asked how long this has been in existence of having 2 residences on this parcel. Director Jacobson advised he worked with the Applicants approximately 2 years ago to split this parcel for compliance of the 2 residential structures.

The Applicant was not present for the hearing. Director Jacobson clarified that the unpermitted cabin was not onsite at the time of the split.

On motion by Bill Davis, seconded by Brad Eldred, 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. Applicant must abide by provisions of the Clay County Development Code;
2. Any other conditions as the Planning Commission deems necessary.

Chair Baer clarified if there was a building permit for the cabin; Director Jacobson advised there was not a building permit.

On motion by Bill Davis, seconded by Brad Eldred, and unanimously carried, the Planning Commission GRANTED the Interim Use Permit with the following conditions:

- 1. Applicant must abide by provisions of the Clay County Development Code.**

STRATA CORPORATION – REQUEST FOR INTERIM USE PERMIT AMENDMENT

The petitioner is seeking an after-the-fact amendment to an interim use permit to increase the acreage of a gravel pit on parcel 17.016.3800, the SW1/4 of the SE1/4 and the E1/2 of the SW1/4, Township 141N, Range 45W, Section 16, Keene Township .

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

Matt Jacobson, Planning Director, states this after-the-fact request is for an amendment to a gravel mining operation use permit for updating acreage. Current use is for agricultural and gravel mining; there are no structures on the parcel. The zoning on this parcel includes Agricultural General (AG), Resource Protection-Aggregate (RP-Agg), and Shoreland: Special Protection-Rivers & Streams (SP-Rivers & Streams). This use is allowed within the AG and RP-Agg zoning districts with an Interim Use Permit. The use is not allowed in the Shoreland: Special Protection – Rivers and Streams zoning.

Policy Considerations include:

Land Use: Agriculture

- Recognize and Protect the agricultural character of Clay County.
 - b. Protect prime agricultural soils from commercial, industrial and residential development.

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.

Natural Resources and the Environment: Aggregate Resources

1. Recognize the importance of aggregate resources to Clay County and the region.
 - a. Continue to protect quality aggregate resources from encroachment of incompatible residential, commercial, and industrial development.
2. 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.
 - b. Avoid or mitigate against impacts to groundwater, surface water, native prairie, woodlands, and wetlands for new or expanding mining operations.
 - c. Require phased-end reclamation plans and bonds to ensure mines are reclaimed as mining progresses.
 - d. Consider the cumulative impacts of existing nearby mining operations for new or expanding

operations on the environment, agricultural lands, residential areas, and transportation infrastructure.

This permit was issued in 2016 for a 39-acre gravel mine. The current gravel mine size is approximately 67 acres with 39 acres being mined and 28 acres being used for stockpiling. Mean depth across the pit is approximately 4 feet. Aerial mapping showed the phases when the additional acreage was opened.

The Minnesota State Rules Part 4410.4300 states:

- Mandatory EAW
 - Subpart 12B: “For development of a facility for the extraction or mining of sand, gravel, stone, or other nonmetallic minerals, other than peat, which will excavate 40 or more acres of land to a mean depth of ten feet or more during its existence, the local governmental unit is the RGU”.
 - Applicant has reached the threshold for area, but not the threshold for mean depth of the pit. The applicant is requesting this IUP to amend his total acreage for mining activities to be 67 acres with a mean depth of less than 10 feet.
 - Any additional acreage that is opened or greater than the mean depth of ten feet requires an EAW to be completed and reviewed by the Planning Commission as Regulatory Government Unit before that mining commences.

Director Jacobson clarified that an EAW (Environmental Assessment Worksheet) would be mandatory if the project would excavate 40 or more acres of land to a mean depth of 10 feet or more during its existence. The Applicant has reached the threshold for the area, but not for the mean depth of the pit.

Applicant intended to use 30 acres of the 121-acre parcel for aggregate mining. They are currently at 67 acres of mined and/or disturbed land. The property will be reclaimed back to an agricultural use once mining is completed. The haul route is east to 200th Street North (CR 27) and then travel south on CR 27. There are five residences along CR 27.

In 2016 the mining plan was to mine in the southern portion of the parcel, as well as connect to the adjacent east parcel's mining activity. Mining went further north than anticipated and encroached upon Felton Creek. Special Protection Shoreland zoning is 300 feet from Felton Creek. Per the Clay County Development Code, extractive use is not an allowed use within the Shoreland: Special Protection- Rivers & Streams (300' from the OHWL). Because it is not an allowed use, a Variance cannot be issued for the setback infringement. Applicant was advised there needed to be reclamation in this area and there was some reclamation that occurred as the owner wanted to return it to agriculture, but there is additional reclamation that still needs to occur. Applicant was given 30 days from the June 19th 2022 inspection to reclaim the area disturbed within the 300' of Felton Creek.

The MN DNR had concerns during the 2016 Interim Use hearing. Their concerns regarded the effects the mining may have on water levels of Felton Creek as, if mining were to occur below the water table, it could adversely affect the Felton Creek trout stream. Approximate depth to groundwater on the site is 10-20 feet. No dewatering or washing is anticipated onsite. There are areas on this parcel where ponding does occur.

They are currently running operations March through December, Monday through Saturday, 6 am to 9 pm. Operations normally are conducted with excavators, bulldozers and front-end loaders. A portable crusher is periodically used. Applicant does have a Variance to mine through the property line adjacent to parcel

17.016.4500 owned by the Rodewalds. This Variance does not apply to the south or west property line setback. A map delineating Mine Areas 1-5 was reviewed, which also showed the stages of reclamation.

Director Jacobson advised that first the Planning Commission must determine if an EAW is required, although the pit doesn't technically meet the threshold due to mean depth. If it is determined an EAW is not required, the Planning Commission should work through the Findings of Fact and Order.

Chair Baer compared this hearing to one similar a few months ago and asked how the mean depth is determined. Director Jacobson advised that Lidar, amount of material removed and what the original elevation was are all items to consider.

Jesse Johansen advised he has worked for Strata for approximately 14 years. He was not present at the initial Interim hearing. He was not aware that the property lines, Felton Creek setback or acreage had been exceeded. Chair Baer asked Mr. Johansen when the anticipated closing date of this pit would be; Mr. Johansen stated 6 years would probably be a close estimate.

Chair Baer felt that Applicant should be given a one-year permit to fix the violations currently onsite and then once those items are properly addressed, they can ask for more years on their permit.

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

If the Interim Use Permit is granted, Staff recommends the following conditions:

1. Permit shall terminate on December 31, 2025.
2. Operate within provisions of the Clay County Land Development Ordinance.
3. Operator shall control dust by applying chloride in front of residences located along the haul route and coordinate maintenance on any/all gravel haul roads with the Clay County Highway Department.
4. Operator shall improve access onto 200th Street North to meet Clay County Highway Department standards and place appropriate "Trucks Hauling/Entering" signage at entrance when hauling.
5. 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. Sediment control methods must be implemented between mine site and Felton Creek.
6. Operations must comply with all provisions of Wetlands Conservation Act.
7. Sixty-seven (67) acres not to exceed ten-foot (10') of depth approved for mining operations (excavation, screening, stockpiling, etc.) if additional areas or depth are proposed to be opened in the future a new or amended IUP would be required.
8. May operate March through December, Monday through Saturday, from 6 a.m. to 9 p.m. Twenty-four (24) crushing operations may be allowed with prior approval from the Planning Office.
9. Operator shall post \$1,000 per acre reclamation bond and reclaim mined out areas as mining activities progress. Require areas to be seeded to native prairie grasses or landowners specifications 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 shall present a mine 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.

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

On motion by Joel Hildebrandt, seconded by Kurt Skjerven, and the majority in favor with Bill Davis opposing, the Planning Commission *GRANTED* the Interim Use Permit with the following conditions:

- 1 Permit shall terminate on December 31, 2022.
- 2 Operate within provisions of the Clay County Land Development Ordinance.
- 3 Operator shall control dust by applying chloride in front of residences located along the haul route and coordinate maintenance on any/all gravel haul roads with the Clay County Highway Department.
- 4 Operator shall improve access onto 200th Street North to meet Clay County Highway Department standards and place appropriate "Trucks Hauling/Entering" signage at entrance when hauling.
- 5 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. Sediment control methods must be implemented between mine site and Felton Creek.
- 6 Operations must comply with all provisions of Wetlands Conservation Act.
- 7 Sixty-seven (67) acres not to exceed ten-foot (10') of depth approved for mining operations (excavation, screening, stockpiling, etc.) if additional areas or depth are proposed to be opened in the future a new or amended IUP would be required.
- 8 May operate March through December, Monday through Saturday, from 6 a.m. to 9 p.m. Twenty-four (24) crushing operations may be allowed with prior approval from the Planning Office.
- 9 Operator shall post \$1,000 per acre reclamation bond and reclaim mined out areas as mining activities progress. Require areas to be seeded to native prairie grasses or landowners specifications 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 shall present a mine 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.

R&G DEVELOPMENT/RICHARD LARSON – PETITION FOR TEXT AMENDMENT

The petitioner is seeking a petition for text amendment to the Clay County Development Code to allow swimming pools as a permitted use in the Shoreland: Special Protection Zoning District.

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

Matt Jacobson, Planning Director, advised this request is for adding swimming pools as a permitted use to the Shoreland Zones: Special Protection – Low Development, Special Protection, Residential District, General Use District.

Policy Considerations from the Comprehensive Plan include:

Natural Resources: 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.
 - a. Reduce development pressure on natural environment lakes in Clay County.
 - c. Continue to enforce shoreland regulations on Clay County lakes, rivers and streams.

This request is consistent with the Minnesota Shoreland Rules 6120:

- Must meet structure setbacks and impervious surface standards
- Subject to floodplain standards (if applicable)

Several pools are current in shoreland zoning districts, which is 1000 feet from Ordinary High-Water Level (OHWL). There have been no comments received from the public. The MN DNR advised they have no concerns. Swimming pools would be included as part of the impervious surface limitations in affected Zoning Districts and would be subject to structure setback standards. Construction of pools would need to be permitted.

Joel Hildebrandt clarified if this was for all pools or just in-ground pools. Director Jacobson advised that the new standard would be for above and below ground pools. The current Development Code Standards 8-6-27: Standards for Swimming Pools:

- A. Fencing: All swimming pools shall be required to be fenced to restrict access to swimming areas. Fencing shall completely surround the swimming pool and shall be a minimum of four feet (4') in height. Additional fencing shall not be required for above-ground pools, provided access to all swimming areas is restricted by deck railings.

Director Jacobson discussed many potential modifications or safety measures.

Potential Updated Standard:

- A. Safety Measures: All swimming pools shall be required to be fenced or have an alternative safety measure in place to restrict access to swimming areas. If fencing is used, it shall completely surround the swimming pool and shall be a minimum of four feet (4') in height. Additional fencing shall not be required for above ground pools, provided access to all swimming areas is restricted by deck railings. Alternative safety measures include locking covers, power covers, vegetation that prevents access, or any other design feature that restricts access to swimming areas from other properties. There are no federal or state laws that require complete enclosure of a private swimming pool with a fence.

Applicant Rick Larson advised that this Lee Lake lot is large (6-acres) and heavily wooded. They intend to have a cover over the pool when it is not in use.

There were no public comments for or against this hearing.

On motion by Bill Davis, seconded by Brad Eldred, 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 Bill Davis, seconded by Brad Eldred, and unanimously carried, the Planning Commission unanimously approved *Recommendation to the Board of Commissioners* for approval of the Text Amendment with the updated Safety Measures.

UNFINISHED BUSINESS:

- Resource Protection – Aggregate (RP-Agg) Overlay Subcommittee: Matt Jacobson advised that the Subcommittee met last Wednesday, July 12th and recommended removal of the Resource Protection – Aggregate (RP-Agg) overlay for the following areas:
 - Townsite of Downer
 - Barnesville Golf Course
 - Wellhead Protection Area
 - Boutons and Dean's Subdivisions
 - Turtle Lake Shoreland
 - Riverview Country Estates
 - Winnipeg Junction

Areas that have been mined out and reclaimed or any Shoreland or subdivisions would be considered for Resource Protection-Aggregate (RP-Agg) Overlay removal.

Total parcels reviewed are approximately 1,645, there are about 774 parcels that would be fully or partially removed and approximately 538 landowners affected. It was pointed out that many of these parcels are in Shoreland or Subdivisions and are smaller-sized lots.

The following uses were recommended to be added to permitted uses:

- Commercial Agriculture less than 50 Animal Units
- Farm Buildings not used as dwellings
- Parks
- Picnic Grounds

And to also add the following uses as Conditional Uses:

- Campground
- Golf Course

Director Jacobson gave options for proceeding forward with this zoning change. There was discussion about noticing individual landowners impacted by this zoning change and it was determined that they should be noticed. These changes will only make zoning less restrictive on the affected parcels.

Chair Baer recommended that if there are no hearings scheduled for August, that this matter be placed on the September Agenda.

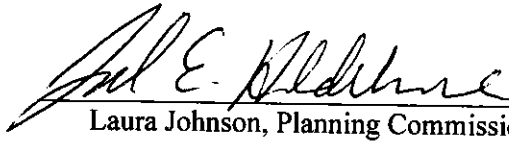
NEW BUSINESS:

- Director Jacobson discussed after-the-fact violation requests that this Planning Commission have heard. He has reached out to his colleagues in other Counties across Minnesota to get input how they are dealing with enforcement of these items, such as fines or administrative penalties. There was discussion regarding several of the situations the Planning Commission have encountered for after-the-fact/violation permits requested.
- Director Jacobson advised that the IRS mileage rate increased as of July 1, 2022 to \$0.625 per mile.

ADJOURNMENT:

On motion by Bill Davis, seconded by Brad Eldred, and unanimously approved, the meeting adjourned at 7:25 pm.

in Laura Johnson's absence



Laura Johnson, Planning Commission Secretary