

**CLAY COUNTY PLANNING COMMISSION MINUTES**  
**7:00 TUESDAY, SEPTEMBER 20, 2022**  
**THIRD FLOOR BOARD ROOM, CLAY COUNTY COURTHOUSE**

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

**Members Absent:** Andrea Koczur, Brent Berg

**Others Present:** Matt Jacobson, Erika Franck, Michael Leeser, Justin Sorum, Rita Rueckert, online participant 218-731-2468, online participant 701-730-4423, online Chris Seifert, John Bekkerus, Ron Bekkerus, Lewis Pahl, Randy Bjornson, Ashley Pahl, Krista Martin, Ali Saeed, Khna Casey Chroeung, Craig Nelson, Paula Nelson, Tom Callahan, Austin Callahan, Jon Lowry, Hannah Stoneburner, Tom Stoneburner, Ed Dorsett, Becky Herrold, Jim Herrold, Noelle Harden, Joe Parise, Ralph Fisk, Tom Wilson, Mary Wilson

**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 Brad Eldred, and unanimously carried, the Agenda was approved.**

**APPROVAL OF MINUTES FROM AUGUST 16, 2022 MEETING:**

**On motion by Brad Eldred, seconded by Joel Hildebrandt, and unanimously carried, the Planning Commission approved the August 16th, 2022 Minutes.**

**CITIZENS TO BE HEARD:**

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

**PUBLIC HEARINGS:**

**THOMAS AND HANNAH STONEBURNER – REQUEST FOR INTERIM USE PERMIT**

The applicant is seeking approval of an interim use home occupation permit to allow for a lawncare business at 27674 90th Ave S, Hawley, MN 56549, on parcel 24.060.0101, Lot 001, Block 001 of Nelsons Subdivision, Section 15, Township 138N, Range 44W, Parke Township.

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

Matt Jacobson, Planning Director, advised this request is an after-the-fact Interim Use Permit request for a Home Occupation Permit to allow the applicant to continue to operate a lawn care business. The following Policy Considerations were reviewed:

**Land Use: Residential**

- 3. Recognize the diversity of living and working arrangements in the unincorporated areas of Clay

County.

- a) Allow for home occupations in unincorporated areas that are in harmony with the rural character of Clay County.

This property and all adjacent properties are zoned Agricultural General and Shoreland: Residential District (RD). A Home Occupation – Conditional Use is an allowed use with an Interim Use Permit in the Agricultural General and Shoreland: Residential District (RD) zoning. The property is 3.278 total acres and is located at 27674 90<sup>th</sup> Ave South, Hawley, in Parke Township. There is a residence and an outbuilding located on the site.

Sections 8-3-9C of the Clay County Code establishes the criteria for consideration of the Interim Use Permit request. The applicant did not meet standards 8-3-9c-3 (outside employee count and square footage standards) but was granted a Variance during the Board of Adjustment hearing this date. They operate year-round with lawn care in the summer and snow removal in the winter. Business hours are typically 8AM to 5-6PM Monday through Friday. They employ 4 seasonal workers in the summer and one in the winter. They will use the site to store equipment for the business, employee parking and space in residence to be used for administrative purposes. The equipment will be stored in the attached garage (using approximately 500 square feet) and the detached garage (using approximately 1040 square feet).

Applicant Hannah Stoneburner indicated she and her husband Tom operate their lawn care business from their property and are requesting permission to continue to do so.

**On motion by Steve Lindaas, 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 recommends the following minimum conditions:

1. Home Occupation shall comply with the Clay County Development Code Conditional Home Occupation Standards;
2. Permit ceases upon parcel ownership change;
3. Storage of equipment and any business-related materials shall be within a building or screened from adjacent residential properties.
4. Employees shall be limited to members of the household and five (5) additional non-family employees, unless a plan for additional employee parking and mitigation of potential impacts are provided to the Planning Office;
5. Any other Conditions the Planning Commission deems necessary.

**On motion by Steve Lindaas, seconded by Curt Stubstad, and unanimously approved, the Planning Commission *GRANTED* with the following conditions:**

1. **Home Occupation shall comply with the Clay County Development Code Conditional Home Occupation Standards;**
2. **Permit ceases upon parcel ownership change;**
3. **Storage of equipment and any business-related materials shall be within a building or screened from adjacent residential properties;**
4. **Employees shall be limited to members of the household and five (5) additional non-family employees, unless a plan for additional employee parking and mitigation of potential impacts are provided to the Planning Office.**

## **KHNA CHROEUNG – REQUEST FOR CONDITIONAL USE PERMIT**

The applicant is seeking approval of a conditional use permit to allow for an agricultural service establishment – animal processing facility at 5112 110<sup>th</sup> St. S Glyndon, MN 56547, on parcel 10.036.2201, part of the NW1/4 of Section 36, Township 139N, Range 47W, Glyndon Township.

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

Matt Jacobson, Planning Director, stated this request is for a Conditional Use Permit for an agricultural service establishment – butcher/processing facility. The parcel is approximately 16.7 acres and is located in Glyndon Township in the Agricultural General (AG) Zoning District.

The following Policy Considerations from the 2045 Comprehensive Plan were reviewed:

- **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.
  - b. Avoid or mitigate against commercial and industrial
  - c. Avoid or mitigate against commercial and industrial development that increases the potential for land use conflicts with rural residential or agricultural uses.
- **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.

The processing plant is to process goats and sheep for local sale to local restaurants and international food markets (grocery stores) and the Applicant plans to remodel an existing onsite building. There will be approximately 40-50 animals and will be fed organically and allowed to free range. The primary pen is approximately 1.5 acres when contained is on the south side of the property.

**Agricultural Service Establishment definition: AGRICULTURAL SERVICE ESTABLISHMENT:** Any service establishment primarily engaged in performing animal husbandry or horticultural services, including businesses performing agricultural milling and processing, harvesting or agricultural land preparation, farm equipment sales and service, veterinary services, boarding or training of horses and agricultural produce stands.

This request and parcel meet setback requirements. Per 8-6-12: Standards for agricultural service establishments:

- A. **Setbacks:** All establishments shall be located to allow at least three hundred feet (300') between its driveway and any driveway affecting access to a dwelling or farm field, other than that of the owner. All structures and activities (outdoor storage, corrals, etc.) associated with the Agricultural Service Establishment shall be located at least five hundred feet (500') from any dwelling.
- B. **Related to agriculture:** All establishments shall be necessary to the conduct of agriculture within the district.
- C. **Compatible with Agriculture:** The use shall not be one to which the noise, odor, dust or chemical

residues of commercial agriculture or horticulture might result in creation or establishment of a nuisance or trespass.

All product sales would occur offsite at this time. Only truck/delivery parking and turn around is required. There is adequate space and accesses are provided on County 12 and Township road 110<sup>th</sup> Street South.

Manure Management Plan is for land application. During the winter it will be stored on-site and spread as the snow melts.

Processing Waste Management Plan: Prefers to contain the processing waste to a holding tank to be transported to a licensed facility. Second option would be to do a deep burial method. Applicant will be working with the MPCA to confirm the required process and transportation requirements.

Glyndon Township has their own zoning ordinance. The Applicant is working with the Township to make sure the property meets all requirements of the Township's zoning ordinance.

The Clay County Feedlot Office has no issues with the request and the amount of animal units presented. This request is significantly under the animal units required for feedlot permits. Feedlot permits are for 50 animal units (AU) or greater. Planning and Zoning Technician Erika Franck confirmed that the animal unit count for sheep and goats is .1. Applicant would need 500 goats/sheep to be identified as a feedlot.

Applicant will be working with the Minnesota Department of Agriculture and/or the USDA to obtain the proper meat processing licenses. Sales within the State of Minnesota require a Minnesota Department of Agriculture license. Sales across state lines will require approval through the USDA.

Photos of the property were reviewed.

Jenny Mongeau asked if the 40 to 50 animals onsite being grown, or 40 to 50 being processed daily. Director Jacobson advised that it is 40 to 50 animals at any given time.

Krista Martin represented the Applicants. She is the Accountant Manager for this project. Ezra Baer asked how many animals are being considered for daily slaughter and she thought approximately 10-15 per day. Ali Saeed spoke for the Applicant and advised there would be 20 to 50 slaughtered weekly. Pasture rotation would occur weekly. Applicant is aware of all the other regulatory agencies that require permits. Curt Stubstad asked if there would be someone residing onsite 24/7; Mr. Saeed stated there would be onsite staff caring for the animals 24/7. Jenny Mongeau asked if the Applicant already has a market for their product or if area residents could bring their animals to them for processing; Mr. Saeed advised he currently has a livestock operation near Manvel, North Dakota and they would be able to process.

Bill Davis asked about manure management and Applicant stated they will be doing land applications/spreading on their own 16 acres. Mr. Davis asked if they have a rendering service lined up and Applicant stated they do have a rendering service they will be working with.

Ashley Pahl and Lewis Pahl are neighbors and they feel this service establishment would affect the enjoyment of their property as well as the value of their property. They are concerned about traffic and delivery of the animals, as well as smell, noise and sanitary conditions. They are concerned unwanted wildlife may appear, such as bear and coyote. They feel they are the closest residence northwest to the site and would be greatly affected by this.

Craig Nelson lives just south of the property in question. They have a few horses and are concerned about

pollution and the affect of his property value. He feels the property in question used to be a beautiful property but lately it is not well taken care of and is not adequately mowed. He is concerned about the noise and odor pollution.

Ed Dorsett lives approximately 2 miles away and is concerned about water and adequate care of the sewage. He inquired about the adequate disposal of the slaughtered remains and any impact this operation may have on the area aquifer.

Joe Parise of 5586 100<sup>th</sup> Street South, is a neighbor who came to gather more information on the Application. He agrees with others that have spoken regarding adequate measures to prevent offensive odors and the effect on property values in the area. He has lived in the area since approximately 2006. If the request is granted, he would like to see the County ordinances and regulations that would provide adequate restrictions to prevent offensive odor and eliminate impact on the property values. He understands that the burden is on the Applicant to be sure that the concerns are addressed and asks that the Planning Commission do their due diligence.

Noelle Harden resides in Moorhead. She has worked with the state's food system for the past 10 years and reiterated that this project is a great idea for addressing food access within our local community. She knows that goat and sheep meat is well-desired and much needed in this community. Currently, most of the halal goat and sheep meat is shipped frozen from Australia. She asked that the Planning Commission take into account the current shortage of these local services, the hinderance to the producers that wish to grow these food sources, and the value of these food sources to the local community members.

Jenny Mongeau advised Ms. Harden works with the University of Minnesota Extension Service and is one of the steering members of the Cass-Clay Food Commission. The lack of local opportunities for producers to take their animals to slaughter was a major issue during the recent pandemic.

Mr. Saed states that the area restaurants have concerns and problems with the shipments of their meats and the last several years the demand has risen for sheep and goat meat. This project would provide job opportunities and is important to the large population of Muslim and African community members who heavily rely on the goat and sheep meats in their diets.

Craig Nelson again spoke and stated that an article in today's paper indicated up to 200 sheep/goats and that is where many of the concerns are coming from. Director Jacobson addressed this and stated that the sheep and goat count is .1

Mr. Pahl advised the main concern is the location and not the services being offered.

Tom Wilson lives down the road from the Applicant. He asked if the Applicant is the most recent owner since Randy Barta. He states the condition of this property has been declining and thinks that this will make the problem worse. He is against the request.

Paula Nelson, wife of Craig Nelson, stated that it is easy to be in favor of this request when you are removed from the situation; however, given her location to the site, she is not able to be removed from it and is not in favor of the request.

Ashley Pahl stated she agreed with what Paula Nelson stated and feels this will impact their enjoyment of their property.

Steve Lindaas addressed the comments made regarding the declining state of the property. He asked what the future plans are for maintaining the property. Mr. Saeed stated that there will be someone onsite to care for the animals and to care for the property. He stated that the current owner has been out of the country for a good amount of time but having someone residing onsite to care for the animals and property will improve the situation.

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

Jenny Mongeau asked Director Jacobson about the disposal of animals and how the several slaughter operations within city limits are handling this. Director Jacobson advised that he has talked to the Pollution Control Agency regarding this situation and there are licensed/approved methods for this with a special permit. He understands that they would prefer that these waste products be stored onsite and transferred off the site. Ms. Mongeau understands that there would be strict commercial regulations that would need to be followed to allow for sale of the meat products and Director Jacobson confirmed this. Director Jacobson also advised that there are conditions that may be put in place that, if they are not followed, could lead to the permit being revoked.

Staff recommended minimum conditions include:

1. All sales are to occur off-site. If plans change in future and sales are to occur onsite, an amendment to the Conditional Use Permit is required and a site plan indicating onsite parking spaces may be required with the amendment.
2. Signage is restricted to a maximum of 64 square feet.
3. A detailed manure management plan must be developed in coordination with the County Feedlot Officer and submitted to the Planning Office for review and approval.
4. A detailed processing waste management plan must be developed in coordination with the Minnesota Pollution Control Agency and submitted to the Planning Office for review and approval.
5. Acquire all necessary inspection and license requirements for meat processing from the Minnesota Department of Agricultural and/or the United States Department of Agriculture. Provide copies of the licenses to the Planning & Zoning office for their records.
6. Receive Conditional use and zoning approval from Glyndon Township.

Bill Davis offered that he has had relatives have sheep and cows and the smell from the few cows was significantly greater than the odor created by the several hundred sheep.

Ezra Baer stated that he has been in many of the locker plants and they are always very clean and heavily regulated by the State of Minnesota. Joel Hildebrandt pointed out that there are slaughterhouses allowed in city limits. Bill Davis asked about cremation of the carcasses and Director Jacobson advised that the Pollution Control Agency said cremation is not an allowed option. Steve Lindaas advised that if there is odor, it means that it is showing some rule is not being followed. Jenny Mongeau advised that if they are selling across state lines, they would be inspected weekly by the USDA.

Jenny Mongeau asked at what level would the County food, pool and lodging inspector be involved; Director Jacobson spoke with him and he advised that unless there is a commercial kitchen he would not be involved. Jenny Mongeau confirmed that Environmental Health would need to be involved with the onsite septic and Director Jacobson confirmed this and reminded the Planning Commission that they are allowed to include any conditions on the Permit they feel necessary. Bill Davis confirmed that the general overall appearance of this property has deteriorated significantly over the past several years.



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.

Steve Lindaas asked to add condition: Carcass Management: No cremation to occur onsite. There was discussion about having a condition for the rendering truck to come twice per week. Bill Davis concurred. Steve Lindaas felt that it is a good plan to include specifics for carcass management. Director Jacobson stated that with this type of facility, per the County Code, you cannot create a nuisance condition. Steve Lindaas stated that the condition should read: Applicant must submit a carcass management plan to the Planning Office for review and approval. Ezra Baer advised that the Minnesota Department of Agriculture heavily regulates these items.

Steve Lindaas advised that the State of Maine has awarded grants for small processing plants as they learned during the pandemic that there was a significant impact to the food accessibility. He addressed the audience to advise that he understands their concerns but there should not be odors.

**On motion by Steve Lindaas, seconded by Joel Hildebrandt, and unanimously approved, the Planning Commission *GRANTED* with the following conditions:**

- 1. All sales are to occur off-site. If plans change in the future and sales are to occur onsite, an amendment to the Conditional Use Permit is required and a site plan indicating onsite parking spaces may be required with amendment.**
- 2. Signage is restricted to a maximum of 64 square feet.**
- 3. A detailed manure management plan must be developed in coordination with the County Feedlot officer and submitted to the Planning Office for review and approval.**
- 4. A detailed processing waste management plan must be developed in coordination with the Minnesota Pollution Control Agency and submitted to the Planning Office for review and approval.**
- 5. Acquire all necessary inspection and license requirements for meat processing from the Minnesota Department of Agricultural and/or the United States Department of Agriculture. Applicant to provide copies of the licenses to the Planning & Zoning office for their records.**
- 6. No cremation is to occur onsite.**
- 7. Applicant must submit a carcass management plan to the Planning & Zoning Office for review and to be approved by the Planning & Zoning Director.**

#### **JAMES AND BECKY HERROLD – REQUEST FOR INTERIM USE PERMIT**

The applicant is seeking approval of an interim use home occupation permit to allow for a food truck and catering business at 22477 90th Ave S, Hawley, MN 56549, on parcel 26.023.1601, part of the NE1/4 of the NW1/4 and the NW1/4 of the NE1/4, Section 23, Township 138N, Range 45W, Skree Township.

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

Matt Jacobson, Planning Director, stated this is a request for a home occupation permit for JB Concessions. The Policy Considerations from the 2045 Comprehensive Plan include:

- Land Use: Residential
  - 3. Recognize the diversity of living and working arrangements in the unincorporated areas of Clay County.
    - a. Allow for home occupations in unincorporated areas that are in harmony with the rural character of Clay County.

This property is zoned Agricultural General (AG). Surrounding property is zoned Agricultural General and Resource Protection – Aggregate (RP-Agg). The parcel is 8.66 acres and is located at 22477 90<sup>th</sup> Avenue South, Hawley in Skree Township. There are currently one residential structure and two outbuildings on the site.

The Applicant wishes to operate a food trailer with outdoor seating approximately 56 feet from the centerline of County Highway 10. The proposed hours of operation are Thursday through Sunday, 12-7 PM May through October or November (depending on weather). This food trailer operates offsite business year-round including street vending and catering . The business is licensed by the Clay County Public Health Department.

Applicant proposes to operate the business just off the right-of-way on the south side of County Highway 10 to be visible and attract customers. Seating would be available near the concession trailer and parking would be off-street on the property in a marked and designated area. Signage would direct traffic to the parking lot.

Photos were reviewed of the area the concession trailer is parked as well as the delineated parking lot. Comments have been received from both the Sheriff's Department and the Highway Departments, who share public safety concerns about the proximity of the proposed business to County Highway 10. Director Jacobson did not speak with the Sheriff but did speak to Patrol Division Commander Lt. Josh Schroeder. County 10 had an average daily traffic county of 3300 in 2017 and this has likely increased. Much of this is semi-truck traffic. There is a hill just east of the business site that creates visibility issues and makes it difficult to see the business when traveling west on County 10. Despite the off-street parking, it is felt that customers would most likely park on the shoulder of County 10.

The County Code does not allow for setbacks less than 125 feet from the centerline for structures. The right-of-way is 50 feet at that location.

Applicant James Herrold advised that he has spoken with the Sheriff and was advised that if he had a parking plan and had signs up stating "no parking" and removing them at the end of the business day and putting signage up for where to park, that he should be OK. They have land in the back of the property where they can clear out to have semis come in and turn around but they haven't completed that yet. He does have concerns about the semis parking on the road. He began the business the second week in July. He understands the traffic concerns and doesn't want to see anyone hurt. He stated he did not know that his portable structure would require a permit. He has had power trenched out to his spot near the roadway and that power was inspected by the Minnesota State Electrical Inspector. Chair Baer pointed out that having it hooked up to power by the road now makes it less mobile and more subject to setbacks.

Brad Eldred stated he looks forward to working with the Applicant to get this accommodated because there is a shortage of food options in that area.

Randy Bjornson lives approximately a half a mile west of the site. He states that most of the cars appear to be pulling into the driveway and there doesn't seem to be an issue. He advised he is also on the Township Board and doesn't feel they would have any opposition.

Justin Sorum did state concerns about the location so near to the roadway and the large amount of semitruck traffic in the area, together with the limited visibility due to the hill.

Applicant was asked about the no parking signs he uses. He states they are on metal stakes and are signs with a line through parking.



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

Staff recommends the following minimum conditions:

1. Home Occupation shall comply with the Clay County Development Code Conditional Home Occupation Standards.
2. Permit ceases upon parcel ownership change.
3. Storage of equipment and any business-related materials shall be within a building or screened from adjacent residential properties.
4. Signs not exceeding 32 square feet related to the business may be placed on the property up to the County 10 right-of-way.
5. Concession trailer placement and seating must be setback a minimum of 125-feet from the centerline of County 10.
6. Parking must be setback a minimum of 75-feet from the centerline of County 10.
7. Hours of operation are Thursday through Sunday, 10:00 AM to 9:00 PM, April to November.
8. And, 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.**

Justin Sorum advised that there are no requirements outside of the right-of-way for trees, they just cannot be planted within the right-of-way. This road was last graded in 1984. The right of way for the south side of the road is 50 feet; right of way is 70 feet on the north side of the road.

There was much discussion regarding the site lines for traffic coming over the hill on County 10, and also for traffic going in and out of the driveway and turning onto County 10. Visibility is limited with trees close to the highway, as well as a hill in the roadway.

Brad Eldred stated he does not feel that the trailer itself is an issue but that the traffic in and out of the site creates a dangerous situation, and that is what the greatest concern would be.

Jenny Mongeau asked Justin Sorum about having the Applicant pay for putting up County “no parking” signs that are more permanent and official. Mr. Sorum indicated he would prefer this and permanent signs is something that could be looked into.

Months, days and hours of operation were discussed. Jenny Mongeau asked if this permit restricts the Applicant from taking the trailer to another location to do business and Director Jacobson advised that is correct. Ezra Baer asked about placing a condition to have the trailer removed by December 1<sup>st</sup>

**On motion by Curt Stubstad, seconded by Jenny Mongeau , and unanimously approved, the Planning Commission *GRANTED* with the following conditions:**

- 1 Home Occupation shall comply with the Clay County Development Code Conditional Home Occupation Standards.**
- 2 Permit ceases upon parcel ownership change.**
- 3 Storage of equipment and any business-related materials shall be within a building or screened from adjacent residential properties.**
- 4 Signs not exceeding 32 square feet related to the business may be placed on the property up to the**

**County 10 right-of-way.**

- 5 Work with the Clay County Highway Department to install permanent no parking signs at the expense of the Applicant.**
- 6 All business operations must be no closer than 56 feet from the centerline of County 10.**
- 7 Hours of operation are Thursday through Sunday, 10:00 AM to 9:00 PM, April through October, or into November as weather permits.**
- 8 Parking must be setback a minimum of 75-feet from the centerline of County 10.**

**JASON GEHRIG – REQUEST FOR PLATTED (MAJOR) SUBDIVISION**

The applicant is seeking approval to plat a nine-lot subdivision on parcel 28.021.2200, part of the W1/2 of the NW1/4, Section 21, Township 137N, Range 44W, Tansem Township.

**On motion by Steve Lindaas, seconded by Brad Eldred, and unanimously carried, the Planning Commission opened the public hearing.**

Matt Jacobson, Planning Director, advised that the plat has been changed from a 9-lot to an 8-lot subdivision. It is an 80-acre parcel, with approximately 40 acres of the south half of the parcel being part of the proposed plat. The zoning was previously Resource Protection – Aggregate, which was removed via a hearing a few months ago. Current zoning is Agricultural General (AG) and Special Protection-Shoreland. Current land use is agricultural/industrial/rural vacant. The surround land uses are Agricultural/Residential/Vacant. There is an older gravel mine on the north half of the site.

Policy Considerations from the 2045 Comprehensive Plan Goals and Objectives reviewed include:

**Land Use – Residential**

- 1. Promote and encourage quality and diversified residential and development in the incorporated communities of Clay County.
  - b. Encourage non-farm residential development to occur in small lots around unincorporated communities.
- 2. Provide opportunities for quality rural residential development in Clay County.
  - b. Encourage the development and conservation subdivisions that cluster residential development on small lots and provide for shared open spaces.
  - c. Permit large non-farm residential development if a portion of the property is preserved or converted to a use that retains the rural character of the land.
  - d. Avoid or mitigate residential development on or near environmentally sensitive lands or lands with high quality natural resources.

**Natural Resources – Prairies and Woodlands**

- 1. Protect and enhance remnant tracts of native prairie and forests for the benefit and enjoyment of Clay County residents and visitors.
  - b. Protect native and high-quality prairie and woodland tracts from residential, commercial and industrial development.

**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.
  - b. Maintain and enhance riparian areas of public waters, especially within shore impact zones.
  - c. Continue to enforce shoreland regulations on Clay County lakes, rivers and streams.
  - 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.

Development Code Considerations from 8-7-14: Land Division By Registration of a Plat of Subdivision/Major Subdivision 8-7-14-A:

- A. When required: Except for land divided under the provisions of section 8-7-12, above, of this Chapter, land division by registration of a plat or subdivision shall be required for proposed land divisions that will result in either of the following:
  - 1. Nonresidential: One or more non-residential lots; or
  - 2. Three or More Lots: Two (2) or more developable residential lots and the remainder of the parcel, totaling three (3) or more lots.

Development Code Considerations under 8-5B-5: Dimensional Standards for SP, RD and SP-LD Districts for riparian lots was reviewed.

The lake is significantly higher than the Ordinary High-Water Level (OHWL), which was set in 2003, and it will most likely stay higher than that 2003 level for some time. The highest topography of the lot is at 1,316 feet above sea level. The topography of the lot contains most slopes of less than 12%. The proposed road wouldn't go through any steep slopes or bluffs on the proposed plat. A map of the existing soil conditions was reviewed. The Public Health Director did advise that these soils would be adequate for septic systems.

Existing Conditions with Natural Resources: On the south side there is approximately 11 acres of degraded native prairie. This was identified in the 1990s through a survey done in the County. The identified natural resource is a dry prairie which is relatively rare with less than 300 acres remaining in the County. The prairie is degraded due to the area being dominated by exotic grasses. There is an area on the north half of the property which has a US Fish and Wildlife Service Wetland Easement, which means no draining, filling or excavating would be allowed in this wetland area. This easement is for access and is around the identified wetland.

The lake is almost 69 acres in size with maximum depth of 10 feet. It is not necessarily a recreational lake due to its size and depth. It has not been assessed for water quality. There are five residences in Solem Beach Subdivision along the west side of the lake.

Solem Hills Improvement Plans include: Have an internal road which must be adopted by Tansem Township; septic; well; restrictive covenants; and stormwater infrastructure (drainage ditches, swales) and Stormwater Pollution Prevention Plan. Wells in the area are pumping well above acceptable levels. The plat was reviewed. Steve Lindaas asked if the surveyors took into account any bluffs for developable area and Director Jacobson indicated there are more steep slopes on these proposed lots and those would need to be addressed for future development. There was a meeting at the Township the previous evening regarding this request; the Township has placed it on hold for additional discussion and consideration.

Director Jacobson attended the township meeting last evening and states that most of the comments and concerns were geographical and each were identified on a map. Several areas of 260<sup>th</sup> Street South become impassable and spring road conditions and frost boils also become present. There used to be an outlet at 260<sup>th</sup> Street S and Highway 34 on Solem Lake and was removed approximately 10 to 15 years ago which caused the water level to rise. There are concerns regarding increased traffic on Highway 34 and 260<sup>th</sup> Street. In terms of the subdivision itself, there were questions about the types of structures allowed (i.e. mobile homes, etc.), subdivision road maintenance, snow removal, access for emergency services, school bus, garbage services and mail.

The developer did state they would be willing to do improvements to 260<sup>th</sup> Street as well as the access on 260<sup>th</sup> to Highway 34. The gravel pit will be reclaimed in the next year or so. The developers intent is to keep the north half of the parcel in agriculture production as long as he is the owner. Structures allowed would be a house and an outbuilding.

Minnesota DNR comments included:

1. Can the county limit the size/number of buildings on the prairie areas?
2. If there is a setback from the lake, can the county set a buffer that cannot be tilled to keep native vegetation present and prevent nutrients and sediment from running into the lake?
3. Can the county do some kind of outreach to the new landowners about keeping prairie intact, it's importance to wildlife, pollinators, water quality?
4. If all is a loss, could plants be moved and or seed collected? Could the Gehrigs have a community prairie restoration project to preserve the existing genetic materials?

Board of Commissioners will have the final approval and the Planning Commission's work this evening is to determine approval to send recommendation to the Board of Commissioners for final approval. Steve Lindaas asked if the developer could address the Minnesota DNR issues within their Covenants. Mr. Lindaas also asked how high the water could potentially go on the lake? Director Jacobson indicated that the US Fish and Wildlife Service removed the lake outlet to enhance waterfowl and shorebird habitat downstream, so the lake was now a closed basin.

Brad Eldred asked what haul road was previously used from the gravel pit and Director Jacobson advised 150<sup>th</sup> Street was used to go east to Highway 32.

Jon Lowry of Lowry Engineering spoke on behalf of the Applicant. He feels the conversation with the Township last evening was very productive and thanked Matt Jacobson for doing a good job in recapping the application in his presentation. He states that they wish to help solve any existing problems and be part of the solution. He has reached out to Fish and Wildlife regarding the outlet. He feels outlet removal happened sometime around 2004 or 2005. This is a waterfowl production area and is managed by the Fish and Wildlife Service. There is an easement for right of way intended but not showing on the plat. He feels there are multiple means of egress for these properties. He states they have no concerns about preserving prairie and native plants/seeds. Steve Lindaas asked about providing more aeration for the lake as it is very green and Mr. Lowry feels it is primarily due to the shallowness of the lake and not due to lawn fertilizer up to the shoreline.

Mr. Jacobson advised that the landowner did agree to have the DNR meet at the property on September 22<sup>nd</sup> and Mr. Jacobson wants to try to join that meeting. He stated that he has had discussions with the landowner regarding having the native prairie showcased as an asset for these lots.

Bill Davis inquired of the steep slopes and Mr. Jacobson advised he tries to do a site visit with the landowners when they submit any application for development involving property with any steep slopes or bluffs.

Ezra Baer asked Justin Sorum if the County provides road maintenance for these subdivisions. Mr. Sorum advised they can provide services on an hourly basis, which they currently do for summer but winter is only widened after the road is opened up. Director Jacobson advised it would be an 80 foot right of way and a 20-foot-wide road.

Ralph Fisk is a neighbor and states that 260<sup>th</sup> Street is a concern. He states that when construction is ongoing in the area, the construction vehicles do use that road. His other concern is that Solem Lake is a small lake with only 6 or 7 families currently on the lake. He feels that this is a small lake and there are safety factors for adding additional traffic on this small lake. He is also concerned about the impact to the peaceful environment they currently have.

Paul Ness was online and spoke about the concern that they are a land-locked property that borders the whole



northeast side of the lake. He asked about easements for adjacent properties and how these easements would affect his property. Director Jacobson advised easements are usually a private matter between individual landowners but that there is a possible extension of the road to the north but that would be up to the Township; as for easements, those are something that are worked out with adjacent landowners. Mr. Ness stated he is not opposed to the proposed plat. Jon Lowry indicated that they would be willing to do a dedication of right of way or easement to address Mr. Ness's concern.

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

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

Staff Recommended Conditions include:

1. Final plat must conform to County Subdivision Regulations and MN Statute 505.
2. Lots must conform to Clay County Shoreland Regulations.
3. Developer must provide restrictive covenants.
4. Developer must have recordable road agreement with Tansem Township executed prior to County Board final plat review and decision.
5. The Planning Commission will review and make a recommendation on the final plat to the County Board of Commissioners when final plat is complete at a future public hearing.
6. Potential prairie restoration/preservation conditions.
7. Any other conditions that the Planning Commission deems necessary.

Director Jacobson indicated he would like to see what the DNR has to say regarding Condition #6, doing outreach and education.

**On motion by Steve Lindaas, seconded by Curt Stubstad, and unanimously carried, the Planning Commission *RECOMMENDED APPROVAL TO THE BOARD OF COMMISSIONERS* to include the following conditions:**

1. Final plat must conform to County Subdivision Regulations and MN Statute 505.
2. Lots must conform to Clay County Shoreland Regulations.
3. Developer must provide restrictive covenants.
4. Developer must have recordable road agreement with Tansem Township executed prior to County Board final plat review and decision.

### **UNFINISHED BUSINESS:**

- Resource Protection – Aggregate Overlay: Director Jacobson advised that he had conversations with Chair Baer about the Resource Protection Aggregate Overlay and will have meetings regarding this in October. Director Jacobson advised if the zoning map is incorporated in the Ordinance, all affected properties will need to be notified.

### **NEW BUSINESS:**

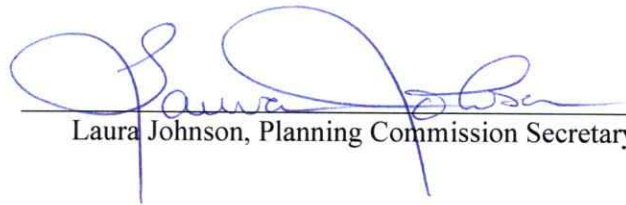
None

Chair Ezra Baer advised Bill Davis's term will be expired in November.



**ADJOURNMENT:**

**On motion by Bill Davis, seconded by Brad Eldred, and unanimously approved, the meeting adjourned at 9:58 pm.**



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Laura Johnson, Planning Commission Secretary