

**CLAY COUNTY PLANNING COMMISSION MINUTES
6:00 PM TUESDAY, FEBRUARY 21, 2023
THIRD FLOOR BOARD ROOM, CLAY COUNTY COURTHOUSE**

Members Present: Ezra Baer, Curt Stubstad, Kurt Skjerven, David Steichen, Ashley Heng, Jenny Mongeau

Members Absent: Brent Berg, Steve Lindaas, Laura Johnson, Joel Hildebrandt, Brad Eldred

Others Present: Matt Jacobson, Michael Leeser, Erika Franck, Rita Rueckert, Lynn Speer, Matt Speer

ROLL CALL:

Attendance was recorded by Chair Ezra Baer and meeting called to order at 6:48 PM.

APPROVAL OF AGENDA:

On motion by Kurt Skjerven, seconded by Curt Stubstad, and unanimously carried, the Agenda was approved.

APPROVAL OF MINUTES FROM JANUARY 24, 2023 MEETING:

On motion by Jenny Mongeau, seconded by Curt Stubstad, and unanimously carried, the Planning Commission approved the January 24, 2023 Minutes.

CITIZENS TO BE HEARD:

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

PUBLIC HEARINGS:

LYNN SPEER – REQUEST FOR INTERIM USE PERMIT

The applicant is requesting an interim use permit to place a temporary second dwelling at 11829 120th St. N, Felton, MN 56536, parcel 08.019.1000, the NE1/4 of Section 19, Twp. 141N, Range 46W in Flowing Twp.

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

Matt Jacobson, Planning Director, advised this is a request to place a temporary second residence on a parcel with an existing dwelling. Aerial photo of the parcel was reviewed.

The property is predominantly farmland with a farmstead consisting of one residential dwelling, six outbuildings and grain bins.

Per Section 8-5-6E2 of the Clay County Land Development Code, the following criteria are provided regarding a second dwelling on a parcel:

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

Applicant is making the request for their son and daughter-in-law, so they can reside closer to them. Both Applicant and his wife are experiencing health issues and wish a temporary second dwelling for their son and daughter-in-law to provide care, transportation, etc. The intent is to place the second residence in the area of the current grain bins and the grain bins will be removed. Applicant will need to check with the County Health Department to determine if a demolition permit will be required for removal of the grain bins. All standards A-F above would be met.

Because this parcel is approximately 160 acres and there is currently only 1 residential dwelling in that quarter-quarter section, they do have the option of dividing the parcel to create a new parcel to add a second dwelling in the future and still meet the residential density standards. It is believed this is the Applicant's future intention. The request before the Planning Commission tonight will just expedite the ability to move the family closer together.

If the permit is granted, staff recommends the following conditions:

- 1) Applicant must abide by provisions of the Clay County Development Code;
- 2) Method of waste disposal approved by Clay County Environmental Health;
- 3) Permit expires when any of the following conditions are met: change in parcel ownership, owner no longer resides on parcel, the establishment of a second residential dwelling on a new parcel;
- 4) Any other condition as the Planning Commission deems necessary.

Applicant Lynn Speer stated that they will probably go with a subdivision on their current parcel but they want to have the ability to have a quicker option if it is needed to be able to get their family together.

On motion by Curt Stubstad, seconded by Jenny Mongeau, 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 text amendment. Any issues or concerns may be addressed with conditions.

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

1. Applicant must abide by provisions of the Clay County Development Code.
2. Method of waste disposal approved by Clay County Environmental Health.
3. Permit expires when any of the following conditions are met: Change in parcel ownership; or Owner no longer resides on parcel.

UNFINISHED BUSINESS:

- **Zoning Violations Enforcement Update** – There was discussion at the January 2023 meeting regarding options for zoning violation enforcement, mostly focusing on use of administrative fines and penalties for violations of conditions on Interim and Conditional Use Permits. A review of the history of the department's history and administrative penalties under Ordinance 2010-03 was also reviewed. Resolution 2010-16 was reviewed which set out the fine and penalty amounts. Remedies discussed were:
 1. Use Permit revocation – this would require a public hearing
 2. Administrative Fines and Penalties
 3. Criminal Enforcement

There have been Use Permits issued in the past where fines or penalties were part of the stated conditions (example is the house moving permit issued in 2021).

In the 2010 Board of Commissioners hearing, staff was directed to create a form for documentation of violations, similar to a ticket. That document has not been located and it is uncertain if it was ever created.

Conditional Use Permits are a land right and are difficult to revoke. The Planning Commission would need to identify frequent and substantial violations. Administrative Fines and Penalties are \$100, or \$300 per day, up to a maximum of \$2,400. Criminal enforcement could be a misdemeanor.

Director Jacobson advised that he polled other counties and the greatest response was the permit revocation process and these other counties have found this to be an effective measure in compliance. Examples of revoked permits were Home Occupation Permits for noise, or a resort that was allowing questionable activity. Most of the permits that have created noncompliance in Clay County pertain to gravel pits and mining. Most frequent issues with gravel pits is regarding impacts to haul roads and most operators are quick to remedy any concerns. Active gravel pits also have issues regarding number of acres being mined and these issues frequently are years behind in identification because violations are identified through aerial imagery which is often several years behind. Feedlots have generated concerns from the public but these inquiries are addressed through the Soil Water Conservation District (SWCD). One county did indicate that they filed criminal charges against a permit holder but they were brought into compliance once that occurred.

The issue of junk cars being stockpiled on non-permitted lots was brought up. Director Jacobson advised there have been 3 properties referred to the Attorney's office for follow up in the past year.

Director Jacobson feels the best way to handle issues is to visit the property, observe the violation, give the owner a letter advising deadline to address the issue, and then bring the landowner in for a revocation public hearing if the Permit holder remains noncompliant. Fines/penalties would be a remedy for those properties that do not hold a Permit and remain non-compliant after repeated attempts to work on getting compliance.

The Planning Commission members indicated that they were in favor of department staff using fair judgment in addressing each complaint as received. Director Jacobson advised that there are situations where building permits or other zoning issues can be denied, and there is a due process of the landowner taking their appeal to the Board of Adjustment for review.

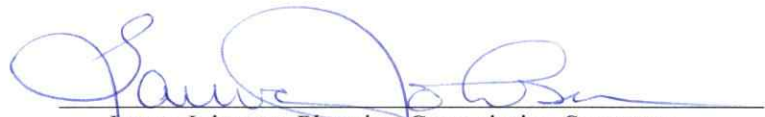
- **Shoreland Ordinance Text Amendment Update:** Director Jacobson advised that the County Board adopted the recommendation made for the updated text amendment for Shoreland Ordinance regarding the change in lot size in Riparian and Non-Riparian lots.
- **Conditional Use Permit Training:** It was recommended to postpone this training until there are more Planning Commission members available to view it, as well as the weather turning inclement to get those safely home before getting later.

NEW BUSINESS:

- 2023 Election of Officers: Planning Commission By-Laws regarding Officer Elections was reviewed. On Motion by Jenny Mongeau, seconded by Curt Stubstad, and unanimously approved, Ezra Baer will retain Chair, Joel Hildebrandt will retain Vice-Chair, and Laura Johnson will retain Secretary.
- Dave Steichen, Ezra Baer and Curt Stubstad expressed interest in attending the MCIT training BUILDING FOUNDATIONS: Making Solid Land Use Decisions in Staples, MN on March 3rd, 2023. Director Jacobson indicated there will probably be an additional training session held in the fall. Jenny Mongeau suggested reaching out to volunteer having the training here in Clay County. Mr. Jacobson will look into the training modules available and what topics may be available.

ADJOURNMENT:

On motion by Curt Stubstad, seconded by Ashley Heng, and unanimously approved, the meeting adjourned at 7:18 PM.



Laura Johnson, Planning Commission Secretary