

**CLAY COUNTY PLANNING COMMISSION MINUTES**  
**6:00 PM TUESDAY, APRIL 11, 2023 (postponed from March 21, 2023)**  
**THIRD FLOOR BOARD ROOM, CLAY COUNTY COURTHOUSE**

**Members Present:** Ezra Baer, Dave Steichen, Brad Eldred, Laura Johnson, Joel Hildebrandt, Jenny Mongeau, Steve Lindaas

**Members Absent:** Curt Stubstad, Kurt Skjerven, Ashley Heng, Brent Berg

**Others Present:** Matt Jacobson, Michael Leeser, Ericka Franck, Rita Rueckert, Talib Salman, Lezan Tahir, Renas Salman, Ian Severson, Loren Richards, Jim Sheridan

**ROLL CALL:**

Attendance was recorded by Chair Ezra Baer and the meeting was called to order at 6:00 PM.

**APPROVAL OF AGENDA:**

The third hearing on the Agenda for Obermoller has been removed due to conflict with State law. On motion by Joel Hildebrandt, seconded by Steve Lindaas, and unanimously carried, the Agenda was approved with the deletion of the third hearing.

**APPROVAL OF MINUTES FROM FEBRUARY 21, 2023 MEETING:**

On motion by Steve Lindaas, seconded by Brad Eldred, and unanimously carried, the Planning Commission approved the February 21, 2023 Minutes.

**CITIZENS TO BE HEARD:**

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

**PUBLIC HEARINGS:**

**RICHARDS FAMILY PARTNERSHIP LLP – REQUEST FOR AMENDMENT TO AN INTERIM USE - MINING PERMIT**

The applicant is seeking approval of an amendment to extend the current Interim Use - Mining Permit for an existing gravel mining operation on Parcel 08.025.0400 in part of the NE1/4 and NE1/4 SE1/4 of Section 25, Township 141N, Range 46W, Flowing Township.

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

Matt Jacobson, Planning Director advised that this request is for an extension to an Interim Use Mining Permit. Applicant was previously over acreage and also mining within setbacks. With these issues present, they were given a one-year permit. The Applicant has now done corrections on these items, as well as proceeded with an EAW and are asking for the Permit deadline to be extended and to keep all the other conditions the same. Once the EAW is completed, it will be reviewed by the Planning Commission and if all is in order, the Applicant can request to expand their acreage and also extend the expiration date of the Permit. It is expected that the EAW will be completed in the next 2 to 3 months.

The Applicant was asked if they wished to speak and stated they had nothing further to add.

**On motion by Steve Lindaas, 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 Steve Lindaas, seconded by Joel Hildebrandt, and unanimously approved, the Planning Commission *GRANTED* the Interim Use Permit with all conditions 2-15 as per previous Permit, with Condition #1 changed to April 11, 2024:**

- 1. Permit shall expire on April 11, 2024.**
- 2. Operate within provisions of the Clay County Land Development Ordinance.**
- 3. Operator shall control dust and provide necessary maintenance on any/all gravel haul roads.**
- 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. Operator shall contact Clay SWCD and have wetland evaluation completed before any mining commences. Operations must comply with all provisions of Wetlands Conservation Act.**
- 6. Propose a maximum of 70 acres with a mean depth of less than 10 feet be approved for mining operations. 62 acres of excavation and 8 acres for topsoil storage, screening, stockpiling, etc. If additional acres are to be opened in the future or mining is to occur to a mean depth of 10 feet or greater, a new or amended IUP would be required including a mandatory EAW.**
- 7. No mining shall be allowed below the water table and no wash plant operation or dewatering may take place on the site.**
- 8. Require applicant to post a reclamation bond of \$500 per acre.**
- 9. Require applicant to reclaim mined out areas as mining activities progress. Require areas to be seeded to native prairie grasses or landowners specification upon reclamation.**
- 10. Applicant must reclaim mined area within the 100-ft Resource Protection – Biological setback and maintain 100-ft setback for all mining activities.**
- 11. Applicant shall provide parking, screening, lighting, drainage, and portable sewer facilities consistent with County regulations as determined by the Planning Department and County Health Department.**
- 12. Require operator to present a detailed 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.**

13. No trees can be removed to allow for mining operations.
14. Operations at the site are limited to Monday through Friday, April through December, 7:00 AM through 7:00 PM, and hauling on Saturday from 7:00 AM to 2:00 PM.
15. Reclamation of mining within the 100-foot property line setback must commence by November 1, 2022.

**LEZAN TAHIR & TALIB SALMAN – PETITION FOR TEXT AMENDMENT TO THE CLAY COUNTY DEVELOPMENT CODE**

The applicant is petitioning to amend the text of the Clay County Development Code to allow for the use Auto, Truck, Trailer, Garden and Farm Equipment Sales within the Agricultural Service Center District on Table 5.1 and add a definition for the use to Chapter 8.

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

Matt Jacobson, Planning Director states that the request is for a text amendment to the Development Code to allow for auto, truck, trailer, garden and farm equipment sales within the Agriculture Service Center District, as the Applicant would like to open a small used car lot.

The following Policy Considerations from the Comprehensive Plan and Zoning were reviewed:  
Agricultural Service Center Zoning District: The Agricultural Service Center Zoning District is comprised of small unincorporated communities throughout the county. The purpose of this district is to support rural residential, commercial, industrial, and agricultural industry to supplement the agricultural economy of the county.

**Goals and Objectives – Commercial and Industrial:**

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

A map was reviewed outlining the 6 Agricultural Service Center Zoning Districts within the County which include: Averill, Kragnes, Downer, Rustad, Baker and Rollag.

Similar uses currently are permitted as Conditional Uses in the Agricultural Sales Service District. These include:

- Motor fuel station
- Motel or Motor Hotel
- Building Material Sales Yard
- Temporary tire and/or Waste Collection and/or Recycling Operations

No performance standards or definition for Auto, Truck, Trailer, Garden and Farm Equipment Sales in the

## Development Code.

Planning and Zoning Staff look at other Counties to identify potential definition for this use and did create the following Potential Definition:

An open area on other than a street, used for the display, sale or rental of new or used motor vehicles, truck, garden and farm equipment, or trailers in operable condition and an enclosed area where limited repair and service work is done, but not to include major repair work such as motor replacement, body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, outdoor storage of vehicle parts, or other work involving noise, glare, fumes, smoke, or other nuisance characteristics.

Proposed Standards for this use within this Zoning District would include:

1. Setbacks: Vehicles on display must be a minimum of five feet from the edge of road right-of-way and must not obstruct the views of the travelling public.
2. Display: No more than 10 vehicles may be on display for sale.
3. Licensing: If five or more cars are to be sold in a one-year period, a state dealer license is required.
4. Storage: Vehicles and parts not on display for sale must not be stored outdoors.
5. Buffers: Vehicles on display must be screened from adjacent residential properties.
6. Service and Repair Services: All vehicle service and repair work must occur indoors.
7. Nuisance: The use must not establish a nuisance in the form of noise, vibration, glare, fumes, odor, lighting, or electrical interference detectable off premise.

There were discussions involving what constitutes a vehicle and would items such as lawn mowers or boats count as vehicles. Joel Hildebrandt advised that vehicles could be counted as anything that needs to be licensed, and that thought was agreed upon. There was also discussion about including parameters of the number of items to be displayed or the type of item being sold to be included within the conditions of any Permits issued.

The limit of 10 vehicles was determined by doing a check in what neighboring areas allow. Steve Lindaas proposed that an Applicant for a permit should have a site plan.

After much discussion, it was determined that the following be removed from the potential definition: “but not to include major repair work such as motor replacement, body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition” since these items would be allowed within an onsite building. Additionally, item #2 of the Proposed Standards was determined to be unnecessary and was removed. Director Jacobson recommends this use would be permitted through Interim Use Permit and any concerns could be addressed as conditions through the Permit process.

There were several members on the Planning Commission who pointed out that most all of the 6 Agricultural Service Center locales within Clay County had previously had a gas station and/or automotive service shop.

Applicant Lezan Tahir stated that many of their concerns were addressed through the discussions the Planning Commission has already done. Their intent is to focus on operating automobiles only and does not include any other types of vehicles. Applicant stated that the intent is to provide sustainable employment for his father, who has previously been a car salesman.



On motion by Joel Hildebrandt, 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.

On motion by Steve Lindaas, seconded by Brad Eldred, and unanimously approved, the Planning Commission *APPROVED RECOMMENDATION FOR THIS TEXT AMENDMENT TO THE BOARD OF COMMISSIONERS.*

Director Jacobson feels that this could be brought to the Board of Commissioners at the May 7<sup>th</sup> meeting.

**UNFINISHED BUSINESS:**

No unfinished business at this time.

**NEW BUSINESS:**

- **Bylaws Amendment:** Director Jacobson indicated that the current bylaws pertaining to the makeup of the Planning Commission were recently reviewed with the Board of Commissioners.

Current Planning Commission includes:

|                                                                                                                        |   |
|------------------------------------------------------------------------------------------------------------------------|---|
| ❖ Clay County Board of Commissioners (required by State Statute)                                                       | 1 |
| ❖ City of Moorhead                                                                                                     | 1 |
| ❖ Oakport Township                                                                                                     | 1 |
| ❖ Moorhead Township                                                                                                    | 1 |
| ❖ Clay County Soil & Water Conservation District<br>(by County Board Resolution)                                       | 1 |
| ❖ Rural Clay County (minimum of 2 required by statute)                                                                 | 3 |
| ❖ Incorporated Areas (Barnesville, Comstock, Dilworth, Felton,<br>Georgetown, Glyndon, Hawley, Hitterdal, Sabin, Ulen) | 3 |

The Board of Commissioners recommended a review of the composition of membership of the Planning Commission. Steve Lindaas discussed removing targeted representation from Oakport and Moorhead Townships.

There was a recommendation forwarded from the Board of Commissioners suggesting that there is representation from the east side of the County and township representation from the west half of the County. Commissioner Mongeau shared that due to the growth of the city of Moorhead, there are comments received that there is not enough representation for the east half of the County. Ezra Baer asked if it should be a Township official or just a resident of an east Township and a west Township; Director Jacobson advised this could be determined by the Planning Commission. There was intentional discussion regarding where areas would be designated regarding east/west. Chair Baer asked who was the representation from the Moorhead Township; Director Jacobson clarified that in 2006 the designation was updated to Moorhead Township or at large.

Director Jacobson asked to consider tabling this item so there can be more of the members available to get their input. It will be brought up at the April meeting on Tuesday, April 18<sup>th</sup> for further discussion and review. Planning Commission members discussed ways to generate more interest in having people serving on the County boards, as well as why there are the perceptions of the east/west comments.

- **Dave Steichen** thanked the County for the opportunity of the training he attended at Staples, MN last month. He shared some of the high-value takeaways and some of the Planning Commission situations that were discussed at that training.

**ADJOURNMENT;**

**On motion by Brad Eldred, seconded by Joel Hildebrandt, and unanimously approved, the meeting adjourned at 7:17 PM.**



Laura Johnson, Planning Commission Secretary