

**CLAY COUNTY PLANNING COMMISSION MINUTES
7:00 PM TUESDAY, MAY 16, 2023
THIRD FLOOR BOARD ROOM, CLAY COUNTY COURTHOUSE**

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

Members Absent: Brent Berg, Curt Stubstad

Others Present: Matt Jacobson, Erika Franck, Michael Leeser, Rita Rueckert, Jesse Johansen, William Briss, Carolyn Joell, Brianne Balcer, Lisa Hoelzer

ROLL CALL:

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

APPROVAL OF AGENDA:

On motion by Joel Hildebrandt, seconded by Steve Lindaas, and unanimously carried, the Agenda was approved.

APPROVAL OF MINUTES OF APRIL 11, 2023 AND APRIL 18, 2023:

On Motion by Brad Eldred, seconded by Laura Johnson, and unanimously carried, the April 11, 2023 Minutes were approved.

Chair Ezra Baer indicated that there was an omission as he was not showing as returning to the meeting. Jenny Mongeau pointed out that there is a correction needed that on Page 5 of the April 18th Minutes, On Motion by Brad Berg should state "On Motion by Brad Eldred". On Motion by Brad Eldred, seconded Jenny Mongeau, and unanimously carried, the April 18, 2023 Minutes were approved with the noted changes.

CITIZENS TO BE HEARD:

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

PUBLIC HEARINGS:

STRATA CORPORATION – REQUEST FOR INTERIM USE

The applicant is seeking approval of an interim use permit to continue a 39-acre gravel mining operation in part of the W1/2 of Section 7, Township 140N, Range 44W, parcel 14.007.0200 in Highland Grove Township.

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

Matt Jacobson, Planning Director, advised the request is to continue an Interim Use Mining Permit. Property is zoned Ag General and has Shoreland Special Protection on the northwest corner of the property.

Policy Considerations from the 2045 Comprehensive and Transportation Plan reviewed include:

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.
 - 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.

The subject property and surrounding properties are zoned Agricultural General (AG) and Shoreland-Special Protection. This use is allowed within the Agricultural General (AG) zoning district. It is not allowed in the Shoreland-Special Protection zoning district.

The Applicant is requesting a continuation of a Permit which expired on December 31, 2022. This is a 39-acre gravel mine with a total of 17-acres currently open. The pit lifespan is 10 years. Some crushing will occur on site, no de-watering or washing have taken place or are planned. Haul route is to travel north from the site to 80th Avenue north, then west to 240th Street and north to Highway 9. Truck speed will be limited and water or chloride will be used to control dust.

There are several residential sites within the area and along the proposed haul road. To the north is a permitted event center that caters to weddings and special events. Applicant is requesting mining hours to be allowed March to December, Monday through Friday 6:00 AM to 9:00 PM for both mining and processing. Previous permit allowed operations for 7:00 AM to 9:00 P.

Reclamation will be claimed in two phases. Once the first area is completely mined out the area where no traffic would occur would be reclaimed. Final reclamation will return one year after all mining activities have been concluded, with reclamation returning land to agricultural use. Staff proposed conditions would be the same conditions as the previously expired Interim Use Permit.

Photos were reviewed looking into the pit, as well as photographs of the surrounding area.

Chair Baer inquired of the proposed haul road from within the pit. Haul routes maps were reviewed. There has not been any comment from the Township regarding this request.

Steve Lindaas asked how the \$1,000 dollar value was determined for the reclamation bond. Director Jacobson advised the amount was determined by the Applicant and is based on what they would need to do and their capacity to perform that work themselves. If they have the topsoil and clay overburden onsite, it is just a matter of labor and seeding.

Jesse Johansen of Strata Corporation clarified that trucks would previously sometimes use 80th Ave N east to Highway 32 when they were hauling heavily to the Amazon site which would be empty loads, with the trucks carrying loads using Highway 26.

Neighbor Carolyn Joell lives on the corner of 80th and 240th. She is concerned about the public safety from the truck traffic. They have already had an accident out there, as well as many near misses. She states that trucks are going through the stop signs and the truck drivers are not yielding to other traffic. She avoids the area roads when they are hauling which includes as recently as this spring and not just from when they were working on the Amazon project. She states they have also been starting at 6:00 AM and the traffic noise has awakened her. The loaded trucks are tearing up the roads and on 240th there are 3 hills/valleys that they break and pull up on.

William Briss, a neighbor on 7529 240th Street repeated the concerns of neighbor Carolyn Joell. Mr. Briss advised that a previous neighbor made complaints against Strata while he lived there, as they were not following hours or haul routes conditions. He states that he isn't against them working out there as long as they do not exceed capacity or hours of what they were allotted. Director Jacobson advised that he did have conversations with neighbor Darryl as outlined by Mr. Briss, and that Mr. Jacobson would call and have conversations with Mr. Sogn at Strata to follow up on these concerns.

Jesse Johanson advised he would prefer to be contacted when there have been issued or complaints. Director Jacobson indicated that he has contacted Mr. Johansen on issues and seems to have better response to issues when they are presented. Mr. Johansen indicated that there was trouble earlier this spring on County 27, and he followed up with the Moorhead manager. Director Jacobson feels they now have a process in place to handle complaints and that the response seems to have gotten better. Brad Eldred questioned if there were better options for haul routes. Dave Steichen asked Ms. Joell if the speed issue or the stop sign issue were the biggest concern; Ms. Joell advised not stopping at the stop sign was the biggest concern.

There has not been any contact or concerns heard from the Townships.

On motion by Brad Eldred, 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 text amendment. Any issues or concerns may be addressed with conditions.

Staff recommends the following minimum conditions be included:

1. Permit shall terminate on December 31, 2033.

2. Facility shall operate within provisions of the Clay County Land Development Ordinance.
3. Operator shall control dust and provide necessary maintenance as determined by the Planning Department on 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 comply with all local/state/federal regulating agencies prior to commencing mining operations.
5. Operations must comply with all provisions of Wetland Conservation Act.
6. Propose a maximum of 39 acres be approved for mining operations (excavation, screening, crushing, stockpiling, etc) additional acres will be permitted unless an Environmental Assessment Worksheet (EAW) is conducted for the property prior to a permit being issued;
7. Applicant shall post a reclamation bond of \$1,000 per acre.
8. Applicant shall reclaim mined out areas as mining activities progress. Areas shall be seeded.
9. Facility may operate March through December, Monday through Friday, starting at 7:00 AM until 7:00 PM, Saturdays 7:00 AM to 2:00 PM for hauling only. If the need arises to operate 24 hours a day, the operator must contact the Planning Director in advance with the details of the anticipated timeframe for the extended mining hours to obtain approval.
10. 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.
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.
12. All mining operations shall take place outside of the 1,000-foot Shoreland Zoning of Solwald Lake.
13. Other conditions as the Planning Commission deems necessary.

There was discussion regarding how road maintenance would be administered and who would be responsible for what measures of maintenance between the gravel operator and the County Highway Department. Planning Director Jacobson feels that the expertise of the Highway Department should be used to determine what is normal wear and tear on the roads and what is excessive damage.

On motion by Steve Lindaas, seconded by Brad Eldred, and unanimously approved, the Planning Commission *GRANTED* the Interim Use Permit with the following conditions;

- 1. Permit shall terminate on December 31, 2033.**
- 2. Facility shall operate within provisions of the Clay County Land Development Ordinance.**
- 3. Operator shall control dust and provide necessary maintenance on 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 comply with all local/state/federal regulating agencies prior to commencing mining operations.**
- 5. Operations must comply with all provisions of Wetlands Conservation Act.**
- 6. Propose a maximum of 39 acres be approved for mining operations (excavation, screening, crushing, stockpiling, etc.). No additional acres will be permitted unless an Environmental Assessment Worksheet (EAW) is conducted for the property prior to a permit being issued.**
- 7. Applicant shall post a reclamation bond of \$1,000 per acre.**
- 8. Applicant shall reclaim mined out areas as mining activities progress. Areas shall be seeded to landowner specifications upon reclamation.**
- 9. Facility may operate March through December, Monday through Friday, starting at 7:00 AM**

until 7:00 PM with hauling only on Saturdays from 7:00 AM to 2:00 PM. If the need arises to operate 24 hours a day, the operator must contact the Planning Director in advance with the details of the anticipated time frame for the extended mining hours to obtain approval.

10. Applicant shall provide parking, screening, lighting, drainage, and portable sewer facilities consistent with County regulations as determined by the Planning Department and the County Health Department.
11. Operator 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.
12. All mining operations shall take place outside of the 1,000-foot Shoreland Zoning of Solwald Lake.

MARK SAND AND GRAVEL – REQUEST FOR INTERIM USE

The applicant is seeking approval of an interim use permit for a the S1/2 of the NE1/4, Section 21, Township 137N, Range 44W, parcel 28.021.1500 in Tansem Township.

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

Matt Jacobson, Planning Director, stated the request is for a continuation for operation of a 20-acre gravel mine.

2045 Comprehensive and Transportation Plan considerations reviewed include:

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.
 - 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 parcel is in Tansem township. Current use is Agricultural, Aggregate Mining, and Rural Vacant (Prairie). Zoning is Resource Protection-Aggregate and Special Protection and in the southwest corner is Special Protection – Shoreland. Applicant has been coming approximately every 3 years to renew this permit. There is approximately 17 of the 20 permitted acres that have been mined. Excavation will occur as jobs are awarded. An asphalt batch plant and processing area will be staged on the northeast 10 acres. Crushing, screening and stockpiling will occur onsite. The applicant has an active NPDES and SDS: Nonmetallic Mining and Associated Activities permit from the MPCA. There will be 2-4 employees working on the site. The applicant is requesting operating hours of April through November, Monday through Saturday 6:00 AM to 9:00 PM.

A diagram of the mining operation at the site was reviewed, as well as a map showing haul route, nearby residence and other active gravel pits in the area. Director Jacobson advised that the use in this pit is intermittent and it is not used often. There are wetlands on the parcel but further mining is planned to push to the west away from these wetland areas.

Reclamation will occur in three stages with site to be sloped 3:1. Area will be reseeded to native prairie.

Applicant Brianne Balcer advised that the hours are limited for summer construction from dark to dark during the daylight hours. Steve Lindaas asked about the hours. Chair Baer did point out that there were not residences surrounding this pit. Director Jacobson advised he has not received any calls regarding this pit.

On motion by Joel Hildebrandt, seconded by Laura Johnson, 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.

Staff recommended minimum conditions included:

1. Permit shall terminate on June 20, 2026.
2. Applicant shall operate within provisions of the Clay County Development Code.
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 by the Planning Office and shall follow all local/state/federal regulations prior to commencing mining operations.
5. Operations must comply with all provisions of Wetland Conservation Act (WCA).
6. A maximum of 20 acres is approved for mining operations. Any additional acreage proposed in the future shall require new or amended IUP.
7. May operate April through November, Monday through Saturday, 6AM to 9PM.
8. Require Applicant to reclaim mined out areas as mining activities progress. Require areas to be seeded to native prairie grasses or landowner's specifications upon reclamation.
9. Applicant shall provide parking, screening, lighting, drainage, and portable sewer facilities consistent with County regulations as determined by the Planning Department and the County Environmental Services Division.
10. Require operator to present a detailed mine plan to Planning Office indicating the 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.
11. Applicant to post a \$16,000 reclamation bond.
12. Operator is to manage invasive and noxious weed species along haul road from the mining site to County Highway 32.

On motion by Joel Hildebrandt, seconded by Ashley Heng, and unanimously approved, the Planning Commission *GRANTED* the Interim Use Permit with the following conditions:

1. **Permit shall terminate on June 20, 2033.**
2. **Operator shall operate within provisions of the Clay County Development Code.**

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 follow all local/state/federal regulations prior to commencing mining operations.
5. Operations must comply with all provisions of the Wetland Conservation Act (WCA).
6. A maximum of 20 acres is approved for mining operations. Any additional acreage proposed in the future shall require a new or amended IUP.
7. May operate April through November, Monday through Saturday, 6:00 AM to 9:00 PM. Operator must obtain approval from Planning Department to operate outside stated hours of operation.
8. Require operator to reclaim mined out areas as mining activities progress. Require areas to be seeded to native prairie grasses or landowner's specification upon reclamation.
9. Applicant shall provide parking, screening, lighting, drainage, and portable sewer facilities consistent with County regulations as determined by the Planning Department and the County Environmental Services Division.
10. Require operator to present a detailed mine plan to Planning Office indicating the 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.
11. Applicant to post a \$16,000 reclamation bond.
12. Operator is to manage invasive and noxious weed species along the haul road from the mining site to County Highway 32.

MARK SAND AND GRAVEL – REQUEST FOR INTERIM USE PERMIT

The applicant is seeking approval of an interim use permit for a portable bituminous hot mix plant in part of the S1/2 of the NE1/4, Section 21, Township 137N, Range 44W, parcel 28.021.1500 in Tansem Township.

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

Matt Jacobson, Planning Director, advised the Policy Considerations are the same as the two previous hearings, as well as the same zoning, same current uses and the same considerations from the 2045 Comprehensive and Transportation Plan.

Setback requirements for asphalt batch plants include:

- 300 feet from property lines
- 500 feet from road or highway right of way
- 1,000 feet from residence, church, school or public establishment

The proposed location appears to meet all setbacks. The closest residence is over 1,500 feet to the east of the proposed plant. Nuisance concerns for batch plants include air emissions, noise, odor and dust. The portable bituminous hot mix plant at this gravel mining site would mostly be used for various projects within the Barnesville area.

This pit has been operating for over 10 years with no issues, problems or complaints. The first permit was issued in 2011. There have been no comments or concerns presented from the Township. Director Jacobson indicated there have been no issues with the permits issued to this operator.

Brianne Balcer advised this request is the same as previous request. She advised they follow their permit requirements and their services are a benefit to the County.

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 text amendment. Any issues or concerns may be addressed with conditions.

The minimum Staff conditions include:

1. Permit shall terminate on June 20, 2033.
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. Operations must comply with all provisions of Wetlands Conservation Act.
6. Facility may operate April through November, Monday through Saturday, starting at 6:00 AM until 9:00 PM. If the need arises to operate 24 hours a day, the operator must contact the Planning Director in advance with the details of the anticipated time frame for the extended mining hours to obtain approval.
7. 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.
8. Require operator to present a detailed operations plan for asphalt plant operations to Planning Office indicating equipment locations and locations of hazardous material storage and safety measures to be taken to prevent spillage prior to commencing any operations at the site.

On motion by Steve Lindaas, seconded by Ashley Heng, and unanimously approved, the Planning Commission *GRANTED* the Interim Use Permit with the following conditions:

1. Permit shall terminate on June 20, 2033.
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. Operations must comply with all provisions of the Wetlands Conservation Act.
6. Facility may operate April through November, Monday through Saturday, starting at 6:00 AM until 9:00 PM. If the need arises to operate 24 hours a day, the operator must contact the Planning Director in advance with the details of the anticipated time frame for the extended mining hours to obtain approval.
7. 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.
8. Require operator to present a detailed operations plan for asphalt plant operations to Planning

Office indicating equipment locations and locations of hazardous material storage and safety measures to be taken to prevent spillage prior to commencing any operations at the site.

LISA HOELZER/ROSE FAMILY TRUST – REQUEST FOR INTERIM USE PERMIT

The applicant is seeking approval of an interim use permit to place a second dwelling on a residential parcel in part of the NW1/4 of the SE1/4, Section 20, Township 138N, Range 44W, parcel 24.020.4502 in Parke Township.

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

Matt Jacobson, Planning Director, stated that the request is to allow for the temporary second dwelling on a parcel. The address is 9595 260th Street S, Hawley. This is a 28-acre parcel and the current land use is residential. Surrounding land uses include agricultural and residential. The zoning on this parcel is Agricultural General (AG).

Policy considerations from the 2045 Comprehensive and Transportation Plan reviewed include:

Land Use – Residential

3. Recognize the diversity of living and working arrangements in the unincorporated areas of Clay County.
 - b. Recognize multi-generational and temporary agricultural worker living arrangements by permitting accessory dwelling units on properties that can adequately provide for water and sewer.

Policy – Development Code Standards

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 the daughter of the owner and wishes to place a 16x80 mobile home on the parcel. The home will have an adequate septic system and will share a well with the principal dwelling.

Director Jacobson advised that these accessory dwellings are becoming more prevalent and popular and more jurisdictions are looking at ways of allowing these dwelling units on properties.

Staff Proposed Permit Conditions include:

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 blood relative no longer resides within the second dwelling on the parcel;

4. Any other conditions as the Planning Commission deems necessary.

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 text amendment. Any issues or concerns may be addressed with conditions.

On motion by Jenny Mongeau, seconded by Steve Lindaas, and unanimously approved, the Planning Commission *GRANTED* the Interim Use Permit with 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 blood relative no longer resides within the second dwelling on parcel.**

UNFINISHED BUSINESS:

- Director Jacobson went over the future Development Code Update. Study Review Committee members for this process would be the group providing regular review and update on the Code as the project progresses. It appears there would be 3 study review committee meetings, August and November 2023, and February 2024.

Development Code Update Participant would include Study Review Committee Members as follows:

- Commissioner Jenny Mongeau
- Commissioner Kevin Campbell
- Administrator Steve Larson
- Engineer Justin Sorum
- Assistant County Attorney Michael Leaser
- Planning Director Matt Jacobson
- Planning Technician Erika Franck
- Planning Administrative Assistant Rita Rueckert
- Board of Adjustment Member Leo Splonskowski (Dennis Loock – alternate)
- Planning Commission Chair Ezra Baer
- Planning Commission member Brad Eldred
- Planning Commission member Ashley Heng
- Planning Commission member Dave Steichen (Joel Hildebrandt and Steve Lindaas – alternates)

Director Jacobson feels that the Townships should be worked with closely during this update. Townships rely on the County's Ordinance; and, while the Townships may be more restrictive than the County, they cannot be less restrictive.

The anticipated timeline for this project would be approximately a year.

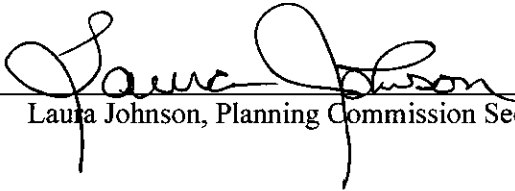
Director Jacobson plans to bring this request to the Board of Commissioners on Tuesday, May 23, 2023, and to also discuss the schedule.

NEW BUSINESS:

None.

ADJOURNMENT:

On motion by Joel Hildebrandt, seconded by Brad Eldred, and unanimously approved, the meeting adjourned at 8:33 PM.



Laura Johnson, Planning Commission Secretary