

CLAY COUNTY PLANNING COMMISSION MINUTES
6:00 PM TUESDAY, JUNE 20, 2023
THIRD FLOOR BOARD ROOM, CLAY COUNTY COURTHOUSE

Members Present: Ezra Baer, David Steichen, Kurt Skjerven, Ashley Heng, Laura Johnson, Joel Hildebrandt, Curt Stubstad, Commissioner Frank Gross for Commissioner Jenny Mongeau

Members Absent: Steve Lindaas, Brent Berg, Brad Eldred

Others Present: Matt Jacobson, Michael Leaser, Justin Sorum, Erika Franck, Rita Rueckert, Bryan Holmes, Wyatt Erdmann, Melissa Van Der Stad, Talib Salman, Lezan Tahir, Renas Salman

ROLL CALL:

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

APPROVAL OF AGENDA:

Chair Baer asked to move the first hearing on the Agenda for Lezan Tahir to later in the Agenda. On motion by Joel Hildebrandt, seconded by Laura Johnson, and unanimously carried, the Agenda was approved with the noted change.

APPROVAL OF MINUTES OF MAY 16, 2023:

On Motion by Curt Stubstad, seconded by Ashley Heng, and unanimously carried, the May 16, 2023 Minutes were approved.

CITIZENS TO BE HEARD:

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

PUBLIC HEARINGS:

LEZAN TAHIR/TALIB SALMAN – REQUEST FOR INTERIM USE

The applicant is seeking approval of an interim use permit to establish an auto sales business at 14952 90th Ave S, Barnesville, MN 56514, in part of the SE1/4 of the NE1/4, Section 21, Township 138N, Range 46W, parcels 05.080.0212, 05.080.0201 and 05.080.0210 in Elkton Township.

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

Matt Jacobson, Planning Director, advised this request is for an Interim Use Permit for an auto sales and repair business. Policy provisions were reviewed from the 2045 Comprehensive Plan and included:

- **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 commercial and industrial development in Agricultural Service Center areas and along transportation corridors and hubs.
- c. Avoid or mitigate against commercial and industrial development that increases the potential for land use conflicts with rural residential or agricultural uses.

This proposed use is located on a 3 parcels at the intersection of County State Aid Highway (CSAH) 10 and Trunk Highway 9 South. This property is zoned Agricultural Service Center and the use is permitted with an Interim Use Permit.

Performance Standards for this use in this Zoning District were recently adopted by County Board of Commissioners and 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. License: If five or more cars are to be sold in a one-year period, a state dealer license is required. (This is a State requirement)
3. Storage: Vehicles and parts not on display for sale must not be stored outdoors.
4. Buffers: Vehicles on display must be screened from adjacent residential properties.
5. Service and Repair Services: All vehicle service and repair work must occur indoors.
6. Nuisance: The use must not establish a nuisance in the form of noise, vibration, glare, fumes, odor, lighting, or electrical interference detectable off premise.

Downer has a good mix of uses, particularly along this well-traveled corridor.

Highway Department looked at the right of way at this site. The right-of-way is quite large at this area and has ingresses extend approximately 50 feet along Highway 9 and include wide ditches. Ditches along CSAH 10 are not as wide.

One of the standards include screening from nearby residence. This is a nearby residence and there is a portion of a fence already screening part of the parcel. Photographs were reviewed looking from the various directions of the proposed use.

Elkton Township has provided feedback asking that proper screening be in place, including fencing, trees, shrubs, etc. The Township has also asked that people looking at the vehicles come off the highway and do not stop or park on the shoulder of the highway.

There have been two citizen comments received by email. Both oppose approval of the Permit request. Their concerns included junk cars, outdoor storage, too many vehicles or the property becoming an eyesore. There were concerns about noise generated from automotive repairs and they feel that this type of business would be better suited for commercial areas. Concern was expressed about potential negative impacts to property values. There was also opinion shared that the Use Permit should be given only to the person in whom the name of the actual Auto Sales business was listed. There was conversation as to how to regulate or monitor this. It could partly be monitored with the required Auto Dealer permit issued through the State and their required annual paperwork.

Director Jacobson shared that it is his understanding from the Applicant that the Applicant's father has moved out to the property and wanted to sell a few cars from this location to supplement his retirement income.

Chair Baer asked Engineer Justin Sorum if one of the approaches needs to be eliminated. Engineer Sorum advised he can only comment on the approach on County Highway 10; Highway 9 is a State Highway. There

were concerns about having traffic parked on the side of CSAH 10 instead of actually traveling into the property to stop. It was mentioned that there may be a need for no parking signs at this location. Director Jacobson pointed out that the history of this property has been primarily commercial use requiring parking, ingress-egress, and related issues. There was a hearing approximately a year ago for a seasonal business operating further down on CSAH 10 and No Parking signs were installed at that location to prohibit traffic from stopping on the highway or shoulder of the highway.

Applicant Lezan Tahir advised that there is a lot of space available, and that they have had 8 or 9 cars out there for family gatherings and there was no problem with parking. Applicant inquired about the right of way lines on the map that was shared and it was explained to him that cars couldn't be parked within that yellow delineated area. Applicant asked if he needed to address the concerns/complaints that were received by the Planning Director. Curt Stubstad asked if the plan was to fix up cars a bit and put them out for sale. Applicant Tahir advised they will buy mostly working cars and put them in better condition to sell. Mr. Tahir felt there would be approximately 15 cars sold per month, with most of the vehicles being purchased through auction and the others received as trade-ins. When asked if Applicant would be using the garage currently on the premises, he stated that building is currently a residence and being used as such. Chair Baer questioned if this permit could have been issued as a Home Occupation Permit. Frank Gross asked what the maximum number of vehicles they could store on their lot and Director Jacobson advised this is something that the Planning Commission could state as Conditions and offered various examples of how the conditions could be set/worded. If a vehicle is not licensed, operable, insured or otherwise not road-worthy, current ordinance states that you may only have a maximum of two of these vehicles on your property. Applicant states that the maximum vehicles at a time on the property may be 20 or 30. Proposed hours would be approximately 9:00 AM to 6:00 PM.

Applicant states that they are currently working on the north property line tree line and cleaning it up for better visual appeal.

On motion by Curt Stubstad, seconded by Kurt Skjerven, and unanimously carried, the Planning Commission closed the public hearing.

Minimum staff recommend conditions are:

1. Applicant must abide by provisions of the Clay County Development Code.
2. Lots must be combined to meet Agricultural Service Center Zoning District minimum lot size requirements.
3. All outdoor lighting must be shielded and directed toward the ground.
4. Business operation shall occur between the hours of 7:00 AM to 10:00 PM.
5. State of Minnesota Motor Vehicle Dealers License is required.
6. Any other conditions the Planning Commission deems necessary. Consider adding conditions about vehicle limit (e.g., only 10 on display)

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 Joel Hildebrandt, seconded by Curt Stubstad, 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. **Lots must be combined to meet Agricultural Service Center Zoning District minimum lot size requirements.**
3. **All outdoor lighting must be shielded and directed towards the ground.**
4. **Business operation shall occur between the hours of 7:00 AM to 10:00 PM.**
5. **State of Minnesota Motor Vehicle Dealers License is required and only holders of the license are permitted to sell or display vehicles.**

WYATT ERDMANN – REQUEST FOR CONDITIONAL USE

The applicant is seeking approval of a Conditional Use Permit for an animal feedlot at 11507 200th St S, Barnesville MN 56514, in the E1/2 NE1/4 & E 60 acres of W1/2 NE1/4, Section 32, Township 138N, Range 45W, parcel 26.032.3800 in Skree Township.

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

Matt Jacobson, Planning Director, stated the request is for a continued use and expansion of an existing feedlot.

Policy considerations from the 2045 Comprehensive Plan Goals and Objectives include:

Land Use: Agricultural

- 1 Recognize and Protect the agricultural character of Clay County.
 - a. Support agricultural operations against nuisance complaints when such operations are being conducted according to generally accepted farming practices through “right-to-farm” provisions.

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.

Provision for feedlots from the Land Development Ordinance **8-6-3: Standards for Animal Feedlots** were provided and reviewed.

The parcel is located in Skree Township on approximately 140 acres. Current zoning is Agricultural General (AG) and Resource Protection-Aggregate (RP-Agg). This request is allowed with a Conditional Use Permit for both requests.

This existing feedlot has been in operation since at least 1990, and the earliest MPCA registration was in 2013. The number of animals has fluctuated over the years. Applicant intends to purchase this property and continue raising beef cattle, starting with 35+/- cow/calf pairs (42 Animal Units) (AU). Applicant is looking for the ability to feed out his steers to slaughter which would put him over the 50 AU threshold to require a Conditional Use Permit (CUP).

Applicant is currently registered with the Pollution Control Agency for 70 slaughter steer or stock cow (70 AU) and 65 feeder cattle or heifer (45.5 AU), for a total of 115.5 AU. A copy of that registration was provided to the Planning Commission members. Applicant requests to go up to 299 Animal Units (AU) to be able to build their

operation in the future, which would equate to 181 slaughter steer or stock cows (181 AU) and 168 feeder cattle or heifers (117.6 AU).

Director Jacobson feels that the County's oversight is to make sure adjacent land uses are compatible. There are residential and other setbacks to protect residences from feedlots, but these setbacks also protect the feedlots from the nearby residences.

There are a lot of wetlands on the property but they are not public waters. This feedlot has been in operation since at least 1990. The previous owner worked with the Clay Soil Water Conservation District (SWCD) to build a grass buffer strip between the wetlands and feedlot. This area will need to be maintained and manure to be frequently removed. Photos of the current operation were reviewed. This property has no residence, and the nearest neighbor would be nearly a half mile away. All setback requirements are met.

Applicant Wyatt Erdmann stated that his plan is to purchase this property as early as next week and the 299 AU is to just give him the capacity to work with more animals. He does not plan to increase the size of the current pens or installing additional wells; however, he does want to update the current condition of the property. He has the ability to properly spread the manure. Director Jacobson clarified that although the Applicant doesn't have plans to expand, he does have the capacity to do so.

On motion by Curt Stubstad, seconded by Ashley Heng, 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 approval of this CUP with the following minimum conditions:

- 1) Maximum of 299 Animal Units (AU) onsite.
- 2) Compliance with all appropriate setback and buffer strip requirements as per the Clay County Land Development Ordinance.
- 3) Receipt and maintenance of appropriate State feedlot registration and, if applicable, stormwater management permit from the MPCA. Copies of these documents are to be filed with the Planning Office.
- 4) Manure application must be by means of land spreading and incorporation within 48 hours to reduce potential odor issues.
- 5) Any additional conditions as the Planning Commission sees fit.

On motion by Ashley Heng, seconded by Curt Stubstad, and unanimously approved, the Planning Commission *GRANTED* the Conditional Use Permit with the following conditions:

- 1. Maximum of 299 Animal Units (AU) onsite.**
- 2. Compliance with all appropriate setback and buffer strip requirements as per the Clay County Land Development Ordinance.**
- 3. Receipt and maintenance of appropriate State feedlot registration and, if applicable, stormwater management permit from the MPCA. Copies of these documents are to be filed with the Planning Office.**
- 4. Manure application must be by means of land spreading and incorporation within 48 hours to reduce potential odor issues.**

KIMLEY-HORN & ASSOCIATES – REQUEST FOR CONDITIONAL USE

The applicant is seeking approval of a conditional use permit for a telecommunication tower facility in the NE1/4 NW1/4, Section 33, Township 142N, Range 44W, parcel 29.033.2100 in Ulen Township.

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

Matt Jacobson, Planning Director, advised this is a Conditional Use Permit request for a wireless cellular communication tower and associated equipment platform. Policy considerations reviewed from the 2045 Comprehensive Plan Goals & Objectives include:

Agricultural – 1. Recognize and Protect the agricultural character of Clay County.

- b Protect prime agricultural soils from commercial, industrial and residential development.

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

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

Zoning of the subject property is Agricultural General (AG). The tower site is approximately 5,595 square feet of a 36-acre parcel. Current use of the property is agricultural. There are no residences on the property. The requested height of the tower is a maximum of 199 feet above ground level – 195 feet of tower and a 4-foot lightning rod at the top. There will be equipment storage cabinets located near the base. Access will be off CSAH 34 (160th Avenue North). Setback stands would be met for this request. The submitted proposal provides space for up to three additional users/antennae. The tower footprint has been reduced to minimum use as the

The closest residence is one-quarter mile to the east and is heavily separated from the tower site by trees. Ulen Township approved this tower request at their June 12, 2023 meeting. The property is located near the city limits of Ulen, and the tower would be beneficial for cell users within that municipality.

This is a self-supporting tower and it will be placed to meet the setbacks required in the Development Code. Chair Baer inquired about the tower placement if it fell and Director Jacobson advised that the tower must be placed where, if it fell, it would only land on its own property.

Applicant was represented by Bryan Holmes. Chair Baer asked when the building of the tower would be completed. Applicant indicated that they still have engineer and electrical work to complete on the project.

Highway Engineer Justin Sorum saw no issues with this request.

On motion by Joel Hildebrandt, seconded by Laura Johnson, and unanimously carried, the Planning Commission closed the public hearing.

Minimum conditions recommended by staff are:

1. The facility to be permitted to a maximum height of 199 feet above ground level (AGL).
2. All applicable licenses and/or certifications, including FAA and FCC, shall be obtained for the tower and copies provided to the Planning Office.
3. Tower shall meet all setback requirements set forth in Clay County Land Development Ordinance.
4. Tower must be designed and certified by an engineer to be structurally sound and, at minimum, in conformance with FCC and any other standards that apply to constructing a tower.

5. Tower must be reasonably posted and secured by a fence or some other form of protection to deter trespassing.
6. Access must be provided during normal business hours to all personnel allowed on site.
7. The tower and associated facilities shall be kept and maintained in good condition, order and repair.
8. Tower shall comply with the FCC at all times, including RF emission standards and maintenance.
9. This permit shall automatically expire if no signals are transmitted for a period of 12 consecutive months.
10. Tower shall be constructed in accordance with the MN State Building Code requirements.
11. Applicant shall obtain a building permit for the tower, any buildings or any fence taller than 6 feet in height.
12. Any other conditions that 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 text amendment. Any issues or concerns may be addressed with conditions.

There was discussion regarding extending the commencement of operations to allow enough time for construction to be completed and signal transmission to start.

On motion by Curt Stubstad, seconded by Kurt Skjerven, and unanimously approved, the Planning Commission *GRANTED* the Conditional Use Permit, with the following conditions:

1. Facility will be permitted to a maximum height of 199 feet above ground level (AGL).
2. All applicable licenses and/or certifications, including FAA and FCC, shall be obtained for the tower and copies provided to the Planning Office.
3. Tower shall meet all setback requirements set forth in Clay County Land Development Ordinance.
4. Tower must be designed and certified by an engineer to be structurally sound and, at minimum, in conformance with FCC and any other standards that apply to constructing a tower.
5. Tower must be reasonably posted and secured by a fence or some other form of protection to deter trespassing.
6. Access must be provided during normal business hours to all personnel allowed on the site.
7. The tower and associated facilities shall be kept and maintained in good condition, order and repair.
8. The tower shall comply with the FCC at all times, including RF emission standards and maintenance.
9. This permit shall automatically expire if no signals are transmitted for a period of 12 consecutive months.
10. Tower shall be constructed in accordance with the Minnesota State Building Code requirements.
11. Applicant shall obtain a building permit for the tower, any fence taller than 6 feet in height, or any buildings placed at the tower.
12. Applicant will obtain access permit from the Clay County Highway Department.
13. Use must be established by June 20th, 2026.

UNFINISHED BUSINESS:

None

NEW BUSINESS:

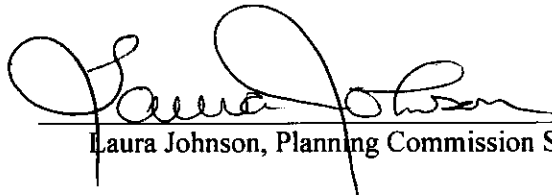
Clay County Development Code Update – Public Engagement; First Study Review Committee Meeting – Director Jacobson inquired as to what date and time would work best to schedule the first Study Review Committee. It was decided to look at August and to find a date and time of day that works best for the greatest share of members. Director Jacobson will find a date and send out information. There was a request to try to avoid Mondays since there are members that would have difficulty meeting on Mondays. First priority topics to review would be Flood Plain and Shoreland Ordinances. Director Jacobson advised that these 2 topics have State and Federal rules that need to be incorporated into any Ordinances reviewed. Another topic to be reviewed at this first meeting would be Non-Conformities. Anticipated meeting length is approximately 2 hours and there will be 3 of these meetings scheduled.

Director Jacobson went over proposed public engagement strategies which include: Online public input survey, Clay County Association of Township Meetings, Clay County Fair Booth and other community events, and Planning Commission meetings. Government Day at the Fair will be Friday July 14th Noon to 4:00 PM. Mr. Jacobson also stated that Planning & Zoning is available to present at any Township Meetings. The Clay County Development Code discussions will also be included in Public Hearing Notices to include opportunity for public input. Social media platforms will also be used to reach out to the public for input and engagement.

Chair Baer asked if the Township surveys could be put in paper form and mailed to the Township Clerk to complete at a meeting, as many township officers do not use internet.

ADJOURNMENT:

On motion by Laura Johnson, seconded by Ashley Heng, and unanimously approved, the meeting adjourned at 7:28 PM.



Laura Johnson, Planning Commission Secretary