

**CLAY COUNTY PLANNING COMMISSION MINUTES
7:00 PM TUESDAY, NOVEMBER 21, 2023
THIRD FLOOR BOARD ROOM, CLAY COUNTY COURTHOUSE**

Members Present: Kurt Skjerven, Sebastian McDougall, Dave Steichen, Joel Hildebrandt, Ezra Baer, Brad Eldred, Jenny Mongeau, Ashley Heng, Brent Berg, Curt Stubstad

Members Absent: Laura Johnson

Others Present: Matt Jacobson, Erika Franck, Michael Leeser, Justin Sorum, Rita Rueckert, Mark Ciernia, Ryan Walker (by telephone), JJ Ottesen, David Rud, Duane Brendemuhl, Dan Grosz, Diane Rix, Michael Rix, Jeff Richards, Alan Christenson

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 Brent Berg, seconded by Curt Stubstad, and unanimously carried, the Public Hearing was closed.

The public hearing regarding continuation of the Richards mining permit on October 17, 2023 was not closed.

On motion by Ashley Heng, seconded by Kurt Skjerven, and unanimously carried, the Agenda was approved.

APPROVAL OF MINUTES OF OCTOBER 17, 2023:

The Richards public hearing on October 17, 2023 was not closed. This information will be officially included in the Minutes.

On Motion by Joel Hildebrandt, seconded by Ashley Heng, and unanimously carried, the October 17, 2023 Minutes were approved with the after-the-fact information for closing the Richards public hearing.

CITIZENS TO BE HEARD:

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

PUBLIC HEARINGS:

CLAY COUNTY LAND DEVELOPMENT CODE UPDATE – REQUEST FOR PUBLIC INPUT

Clay County is in the process of updating the Land Development Code. The Planning Commission will take public comment at their regularly scheduled meetings. Comments and questions can also be submitted by calling the Planning Office or by email at planning@claycountymn.gov.

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

Matt Jacobson, Planning Director, advised the next Study Review Committee (SRC) meeting on Monday, December 11th (after the meeting, this has been changed to Wednesday, December 13th 4:00-6:00pm). There were 23 of the 30 Townships represented at the Township Meeting yesterday, November 20th, 2023 and Director Jacobson gave a presentation on the Land Development Code update. There was good discussion on several topics including:

- Major subdivisions
- Value-added agricultural industries
- Feedlots
- Aggregate mining
- Batch Plants/Redi-mix Plants
- Wind Energy
- Solar Energy
- Commercial Development
- Industrial/Manufacturing not related to agriculture
- Other types of development

They were also asked about the current 125-foot setback from road centerline and if that currently meets the Townships' needs or if there were adjustments needed? Other topics included residential density restrictions, townships considering assuming full zoning authority, and do Townships favor maintaining the current requirement for a township officer's signature. Director Jacobson discussed the Joint Powers areas within Clay County and pointed out the benefits of the structure of these zoning areas. Director Jacobson felt that he didn't feel there were any Townships wanting full zoning authority for permitting. He felt the meeting was very beneficial which included a lot of discussion and he will be following up directly with the Townships on the subject matters. There was negative feedback on wind/solar energy and commercial activity. There wasn't much feedback regarding mining activities or hot mix asphalt batch plants.

Commissioner Mongeau felt the feedback from the Township was positive.

Director Jacobson added that there will be some residents coming in to discuss agricultural subdivisions sometime in December or January, which he described as smaller residential lots included around a larger open lot to be used for gardening, animal husbandry, etc.

There were no members of the public wishing to speak on this matter.

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

KOST MATERIALS – REQUEST FOR INTERIM USE

The applicant is seeking approval of an interim use permit for a gravel mining operation on Parcel 12.027.1600, the W1/2 of the NE1/4, Section 27, Township 142N, Range 45W, Hagen Township.

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

Matt Jacobson, Planning Director, stated that this is for a 39-acre gravel mine. Policy 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 is an 80-acre parcel zoned Agricultural General (AG), Resources Protection-Aggregate (Rp-Agg), currently hay land or rural vacant land and is located in Hagen Township. Zoning is Agricultural General (AG), Resource Protection – Aggregate (RP-Agg), Resource Protection-Biological (RP-Bio). The proposed use of the land for extractive mining is an allowable use in these districts, and allowable in the RP-Bio zoning district if an Environmental Assessment Worksheet (EAW) is completed.

The Applicant wishes to open a 39-acre operation to mine unwashed material for Class 5, road base, concrete aggregates and fill sand. Total mining footprint would likely be 7-10 acres unless additional material is discovered. Mining would likely be complete in 2024, unless further resources are located.

The plan is to crush and screen materials and to mine in one 7-10 acre stage to a depth of 30 feet below grade. No washing will occur onsite. No chemicals will be stored onsite. There will be 3-4 production and 1-2 nonproduction employees working onsite. Applicant's request is to operate 24 hours per day, Monday through Saturday, April through November. Mining will mainly be done by a Minnesota company named Scepianiak.

Mapping photo of proposed mining for 2024 was reviewed, showing mining to be done on the north quarter of the parcel, well away from the areas west and south zoned Resource Protection – Biological (RP-Bio). The haul route will be along 170th Avenue west to 200th Street, which passes 3 residential properties on the way to Highway 34. They would be able to meet the mining operations setback of 500 feet from residences and 100-foot setback from the RP-Bio area. There was a Variance issued earlier this evening by the Board of Adjustment to allow for mining activities up to 50-feet from the roadway centerline setback.

Depth to groundwater is greater than 25 feet below grade. Interior sloping will control runoff and topsoil will be stored in surrounding berms and retained for future reclamation. Site will be sloped to match existing topographic contours, pit leveled and stored topsoil will be placed over the disturbed area. Haul roads will be watered and chemical dust control (calcium chloride) will be applied when necessary. Dust control, silt fencing (if necessary) and other stormwater best management practices will be utilized onsite.

Reclamation will occur in one stage and will be reclaimed to pasture/grassland/hunting land. Reclamation costs are estimated to be \$50,000.

There have been public comments received regarding concerns about dust, impacts to road, and the proximity of the mine to the Township road for snow drifting. The Township Conditional Use Permit requires applicant to rebuild road (170-th Ave) to normal width and stability before proceeding with mining. The township has stipulated hours of operation between 6:00 AM and 8:00 PM with additional time on either end to allow for machine repair and maintenance.

This parcel received an Interim Use Permit (IUP) in 2016, but there was a period of more than 12 months with no activity and also a change of ownership. With an IUP and greater than 12 months of no activity and a change of ownership, the IUP would expire. The Township issued their Permit via a Conditional Use Permit.

Jeff Eberhardt of Kost Materials advised that they were unaware that they would need another permit. They did land stripping last year and thought that would be sufficient effort to maintain the previous permit. Mr. Eberhardt advised that this will be a small mine and the reclamation will look very similar to its current appearance. Mr. Eberhardt stated they thought they had a 5-year window of operation and thought their land stripping was compliant.

Director Jacobson clarified with Applicant that when moving any equipment or machinery over public roads that there are appropriate permits received from the Highway Department for overweight/over-dimensional units. Applicant acknowledged they understood.

Mark Ciernia, Hagen Township Board, feels the Township concern is the haul road of 170th. To the west, the land is Nature Conservancy land and there is water there in the spring. Water also stands on the north side of the ditch. The Township has had a lot of trouble with this road, especially in the spring. They have done considerable work on the ditches and roadway and feel that this is a fragile road. Mr. Ciernia indicated that this is about the 4th gravel pit within a mile radius. Mr. Ciernia advised that in approximately 2016 there was an agreement that the haul road would come out of the pit and go west on 170th. The land to the west is the Nature Conservancy land and there is a spring with running water. The Township has cleaned the ditch on the south side of the road to assist with water flowage; however, they are unable to do anything with the north ditch because it has telephone lines. This water is believed to be the cause of the road instability.

Engineer Justin Sorum stated that he felt Director Jacobson had covered all pertinent concerns and he had nothing further to add at this time.

On motion by Jenny Mongeau, seconded by Brent Berg, 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 Conditional Use Permit. Any issues or concerns may be addressed with conditions.

Staff recommends the following minimum conditions:

- Operate within provisions of the Clay County Land Development Ordinance, especially the specific setbacks required for mining operations.
- No part of the mining operation shall be placed or take place in the Resource Protection Biological (RP-

Bio) Overlay Zoning District.

- Operator shall control dust and provide necessary maintenance on any/all gravel haul roads. Chloride must be used for dust control within 1,000 feet of any residence along the haul road.
- Operator must comply with State of Minnesota Noise Pollution Rules.
- 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.
- Operations must comply with all provisions of Wetlands Conservation Act.
- Operator permitted mining operations for 39-acres. If additional acres are proposed to be opened in the future a new or amended IUP would be required.
- Operator must post a reclamation bond of \$4000 per acre.
- Operator shall reclaim mined out areas as mining activities progress. Areas as to be seeded to native prairie grasses or to landowners specification upon reclamation.
- Operator shall provide parking, screening, lighting, drainage and portable sewer facilities consistent with County regulations as determined by the Planning Department and County Health Department.
- Operator to present a detailed mining 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.
- Mining operators: January thru December, hours for mining, crushing, screening, and hauling shall be limited to 7:00 a.m. to 7:00 p.m., Monday through Friday and Saturday from 7:00 a.m. to 2:00 p.m. for hauling only. If the operator needs to operate 24/7 or beyond stated days/hours they shall first notify the Planning Office with a reason and the length of time requested so the extended hours can be approved and any affected property owners notified.
- Permit shall expire in 5 years, on December 31, 2027.

Chair Baer pointed out that the Township had already approved operating hours of 6:00 AM to 8:00 PM and felt that, although the consensus of late had been to try to keep all mining operations 7:00 AM to 7:00 PM, since the Township had approved this and it was okay with the nearby residents, this Permit should be issued for operations of 6:00 AM to 8:00 PM. There was agreement to this change. Brent Berg stated 5 years should bring the expiration date to December 31, 2028. Joel Hildebrandt asked that the reclamation bond be at \$5,000 per acre. Jenny Mongeau asked if the months of operation should be March through December or January through December. Director Jacobson advised the Application requested April through November, which is the standard usually applied to other mining Permits but this may have come from their previous Permit. Jenny Mongeau felt it should be March through November to cover the time when spring flooding occurs.

Dave Steichen asked about helping the Township safeguard the road, since the Township Officer stated the road is fragile. Director Jacobson advised that the Highway Department is helpful in making sure issues are addressed. County 27 does see quite a bit of traffic, as confirmed by Engineer Sorum, and feels that this road is in better condition. Acknowledgement was given to RJ Zavoral and the work they have done on County 27 in maintaining/improving this road. Director Jacobson advised that one of the stipulations in the Hagen Township permit is to have the road width increased and stabilize the roadbed.

Mark Ciernia advised that they appear to have 2 different standards for road maintenance. One of their haulers maintains their roads almost daily. Another hauler feels that the best time to maintain the road was to wait until the hauling season was over. He feels road maintenance needs to be done on a daily on-going basis.

On motion by Curt Stubstad, seconded by Brad Eldred, and unanimously approved, the Planning Commission **GRANTED** the Interim Use Permit with the following conditions:

1. Operate within provisions of the Clay County Land development Ordinance, especially the specific setbacks required for mining operations.
2. No part of the mining operation shall be placed or take place in the Resource Protection Biological (RP-Bio) Overlay Zoning District.
3. Operator shall control dust and provide necessary maintenance on any/all gravel haul roads. Chloride must be used for dust control within 1,000 feet of any residences along the haul road.
4. Operator must comply with State of Minnesota Noise Pollution Rules.
5. 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.
6. Operations must comply with all provisions of Wetland Conservation Act.
7. Operator permitted mining operations for 39 acres. If additional acres are proposed to be opened in the future, a new or amended IUP would be required.
8. Operator must post a reclamation bond of \$5,000 per acre.
9. Operator shall reclaim mined out areas as mining activities progress. Areas are to be seeded to native prairie grasses or to landowner's specification upon reclamation.
10. Operator 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 to present a detailed mining 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. Mining Hours of Operation: March through November; hours for mining, crushing, screening and hauling shall be limited to 6:00 a.m. to 8:00 p.m. Monday through Friday, and Saturday from 7:00 a.m. to 2:00 p.m. for hauling only. If the operator needs to operate 24/7 or beyond stated days/hours, they shall first notify the Planning Office with a reason and the length of time requested so the extended hours can be approved and any affected property owners notified.
13. Permit shall expire in 5 years, on December 31, 2028.

DAKOTA SEEDING & EROSION CONTROL CORP. – REQUEST FOR CONDITIONAL USE

The applicant is seeking approval of an after-the-fact conditional use permit for an agricultural service establishment at 540 90th Ave N, Moorhead, MN 56560, Parcel ID: 18.033.3300, in part of the SW1/4 of the SW1/4 of Section 33, Township 141N, Range 48W, Kragnes Township.

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

Matt Jacobson, Planning Director, stated this is an after-the-fact request for an agricultural service establishment. The current use is Commercial/Vacant on this 9.8-acre parcel. Zoning is Agricultural General (AG) with a proposed use of Agricultural Service Center (ASC), which is allowed with a Conditional Use Permit (CUP).

Policy Considerations reviewed from the 2045 Comprehensive Plan include:

- **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 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.

- **Agriculture**

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 Applicant owns and operates a commercial seeding and erosion control business which provides services of seeding and erosion control for agricultural drainage ditches, roadside ditches, culvert installation and drain tile repair.

Definition from the Development Code for an Agricultural Service Center:

AGRICULTURAL SERVICE ESTABLISHMENT: Any service establishment primarily engaged in performing animal husbandry or horticultural services, including business 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.

Additionally, Section 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 or commercial agriculture or horticulture might result in creation or establishment of a nuisance or trespass.

Section 8-6-29: STANDARDS FOR STORAGE YARDS FOR EQUIPMENT, MACHINERY, OR MATERIALS ACCESSORY TO COMMERCIAL USES:

- A. Accessory Only: Outside storage of equipment, machinery or materials shall not be a principal use and shall be accessory only to allowed commercial uses.
- B. Maximum Area: Outside storage of equipment, machinery or materials shall occupy no more than ten percent (10%) of the lot area of ten-thousand (10,000) square feet, whichever is greater.
- C. Not in Setback: Outside storage of equipment, machinery or materials within any structure setback area shall be prohibited.

This use request appears to meet all of these setbacks requirements.

There was a CUP issued in 1999 for the storage of agricultural products, which was limited to organically grown beans, peas, lentils, seeds and organic fertilizer. That CUP was amended in 2004 to expand types of agricultural commodities allowed to be stored onsite, with the condition included that they were to clean up all garbage, refuse, dilapidated buildings, machinery, equipment and aggregate material on site by September 20, 2004. There was required vegetative screening of trees and shrubs on the north and east sides of the property. In 2013 a CUP was issued for storage and distribution of agricultural feed commodities and feed by-products. At this time, all previously issued CUPs are null and void due to inactivity and/or failure to establish the use on the site.

The Applicant is currently in the process of purchasing the property from the current owner. Applicant wishes to use the property for equipment and seed storage. No chemicals would be stored onsite. The large storage building on the property would be used as well as some outdoor storage/equipment staging north of the storage building. Building has new electrical, lighting, and concrete floor.

The Applicant currently has some equipment and fill stored onsite. There is an issue between the current owner, Jeff Dahl and another individual who may have an ownership interest in the property. This individual has large quantities of junk in the storage building. This individual also has moved junk cars, convex boxes, trailers, wood and other material onto the property. The Applicant has placed a substantial amount of fill on the property in anticipation of acquiring the property, doing demolition on some of the structures and using the fill for landscaping. The Applicant intends to clean up the property, screen the north end with trees and improve the drainage on the property. The property would also be fenced for security purposes.

There have been public comments received, including from Kragnes Township who are opposed to the use. There are concerns about the aesthetics, nuisance and other impacts to surrounding property owners. There are concerns about chemicals stored onsite and potential impacts to a shared well on the property to the east. Photos were shared that were taken on this date showing the items being stored and the current condition of the property.

There appears to be at least four County Code Violations on the property:

1. Operating a business without a permit (Dakota Seeding and Erosion Control)
2. Outdoor storage yard without a permit (Dakota Seeding and Erosion Control)
3. Outdoor storage of Automobiles (Development Code 8-6-23)
4. Nuisance Conditions (County Code 5-1-1)

That Applicant has expressed wanting to clear up these violations as soon as possible. Violations 1 and 2 would be resolved with issuance of a Conditional Use Permit, so long as standards for Agricultural Service Establishments, and commercial outdoor storage yards are met. Rectifying violations 3 and 4 are the responsibility of Mr. Dahl, the current property owner. Ownership interest in the property between Mr. Dahl and an unknown individual is not clear and there are no filings at the Recorder's Office showing any contract for deed. The previous CUPs granted did not result in any active Agricultural Service Establishment on the property. This unknown individual apparently had a deal with Mr. Dahl but discontinued payment and left his property on the site.

Curt Stubstad clarified that the Applicant is wanting to get a permit for a business he wants to operate on a property that he does not yet own.

Director Jacobson advised he has been working with the applicant over the past year in getting resolution to the issues and also to give opportunity to the public with the concerns that they have.

Jenny Mongeau questions how a Permit can be granted given the current outstanding violations. Kurt Skjerven feels that there needs to be accountability for who is responsible for which actions for compliance; Curt Stubstad agreed. Kurt Skjerven shared the same thoughts.

J.J. Ottesen, the operation manager of Dakota Seeding, states they have been working with Jeff Dahl over the past 2-3 years. He feels there is a squatter that keeps moving stuff in and they aren't able to begin demolition for cleanup until they can eliminate the squatter issue. Mr. Dahl was unable to attend the meeting this evening, but he is working with the unknown party to resolve the outstanding issues. Mr. Ottesen's lawyer sent a new agreement to Mr. Dahl on this date, to include that Mr. Ottesen would take over and handle the items onsite.

Chair Baer confirmed with the Applicant that it isn't their business that is a concern, but the current condition of the property. Mr. Ottesen stated that they can move their items off the property to their other property north of this parcel. However, Director Jacobson advised that the equipment could not legally be moved to that north lot as, for outdoor storage it could only be an accessory to a principal use; additionally, if it is associated to any Agricultural Service Center, it has to be at least 500 feet from any residence, so that north lot could not be used for storing the vehicles and/or equipment.

Duane Brendemuhl, Supervisor of Kragnes Township, advised that at their last meeting they passed a motion to deny permit for this business due to the long-standing violations and issues. The Kragnes Township does not feel that the company is an agricultural business and qualifies for an Agricultural Service Establishment. The Township does not feel that the business actually qualifies as agricultural use. He also stated that they are over the limits on allowed square footage for outdoor storage. The Permit the Township received stated that once the buildings are emptied, the equipment would be moved into those buildings; however, much of that equipment is too large to fit into those buildings.

Diane Rix has resided in Kragnes Township since 1998, shared she wants to keep their neighborhood residential, and this piece of property just keeps acquiring equipment, vehicles, concrete chunks, and other unsightly junk. She expressed concerns about the watershed, nearby coulee and the quality of their water being impacted. She has collected a list of 35 neighbors' signatures who all oppose the Conditional Use Permit request. Concerns were expressed about the material stored on the land and the unknown substances in the trucks. She stated the neighbors have a common concern about the impact to their property values and shared concern about children playing in the neighborhood. Ms. Rix emphasized that year after year that lot is flooded in the spring and there are many concerns to what is currently on the property and how it can affect the neighborhood.

Alan Christianson states that they have watched over the years as this property continues to degrade and the volume of the fill on the property. He has concerns about this fill sliding into the ditches in the event of a flood. He opposes a Permit being issued for this request.

Dan Gross stated his front door faces the property in question, but he feels that what the issue comes down to is agriculture. They have considered fences or tree lines and he doesn't want his children exposed to what is on that property. There is a shared well and he expressed concern about the quality of the water.

Dave Rud owns Lots 1-8 of Harlow Subdivision. He wants to build a house out there but he feels the condition of the property in question is discouraging him from moving and building out there. The common well is on his property and he shared concerns about contamination to the water. He opposes turning the neighborhood into an industrial park.

Ryan Walker was on the telephone and watching the meeting online. He expressed concerns about the well and the property values declining.

Jason Fiedler owns the house on the west side of the northern property line and seconds all the previously stated concerns. He states there has not been a viable effort to clean up this property for decades. He feels that even though there isn't a perfect solution, he feels that the Applicant at least has the desire and ability to clean up this property and he feels encouraged by that.

J.J. Ottesen stated there will not be any chemicals stored at the property, other than fuel in their vehicles.

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

Jenny Mongeau shared that she does need to leave and will not be able to vote; but does not feel that she can support the Permit request and wanted to go on record that she appreciates people bringing their businesses to Clay County. She does feel that this business does serve as part of an agriculture business.

Sebastian McDougall questioned why this property has been in such disrepair for so long. Director Jacobson advised that the Planning Office is a 3-person entity and issues have to be prioritized. Director Jacobson stated he hasn't heard from either the Township or any resident about this property until just recently. Mr. McDougall asked about the Applicant's ability to reapply; Director Jacobson stated that if the Applicant cleans up the property, it would be within his right to come back and reapply and for the Planning Commission to give consideration to any impacts to neighboring landowners as well.

Dave Steichen advised there are so many unanswered questions on this property and wonders what could legally be done to jumpstart enforcement to these blatant violations. Director Jacobson clarified the enforcement process, which is a civil process, and the landowner is given an opportunity to remedy the situation. If the violation is not resolved, it is then handed to the County Attorney's Office and civil litigation begins and the County goes to court to seek relief. That could give the County the ability to go in, clean up the property and assess the property for the costs of the cleanup.

The Findings of Fact and Order were addressed and discussed by the Planning Commissioners as they pertain to the requested Conditional Use Permit.

Staff recommendations, including the possibilities of resolution:

- Approve the permit with the following conditions:
 1. Operate within the provisions of the Clay County Land Development Code.
 2. Signage is restricted to a maximum of 64 sq ft.
 3. North and east sides of the property must be screened with fencing and/or vegetation.
 4. Prepare and submit a parking plan/outdoor storage plan, including screening, to the Planning Office for review and approval.

5. Hours of operation will be 7:00 a.m. to 10:00 p.m.
6. Must have approval from Kragnes Township, if necessary, and be in compliance with all local/state/federal rules and regulations.
7. Applicant must have ownership interest in the property by *(date to be set by Planning Commission)*
8. Must clean up all garbage, refuse, dilapidated buildings, machinery, equipment and aggregate material on site by *(date to be set by Planning Commission)*

Potential Implications:

- Conditions 7 and 8 could be motivating factors to improve the current state of property.
- Applicant could continue to run business while working towards resolving violations.
- Not advisable to approve a Use Permit for a property with several potential Development Code violations

- Deny the permit based on Findings of Fact and Order

Potential Implications:

- Applicant would have to cease business activity on the property. The Planning Commission could have some discretion if applicant could leave equipment onsite for a set duration of time (i.e. six months) while outstanding violations are addressed with property owner.
- Applicant would have the opportunity to address property ownership
- County would pursue enforcement actions against the property owner to remedy violations.
- Once violations are remedied and ownership is resolved, applicant could reapply for Conditional Use Permit.

Director Jacobson asked the Planning Commission to address the Applicant's equipment stored on the property. Joel Hildebrandt asked for clarification from Director Jacobson regarding the Applicant continuing to operate his business at this location. Director Jacobson advised that without granting the Permit, the Planning Commission is basically placing burden on the Planning & Zoning Office to remedy all 4 of the existing violations.

Brent Berg asked Director Jacobson if the Planning Office would now be pursuing remediation of the existing violations; Director Jacobson stated yes. At this time the remediation burden would essentially land on the owner, Mr. Dahl.

On motion by Joel Hildebrandt, seconded by Kurt Skjerven, and unanimously agreed, the Planning Commission *DENIED* the Conditional Use Permit due to the several outstanding violations on this property.

UNFINISHED BUSINESS:

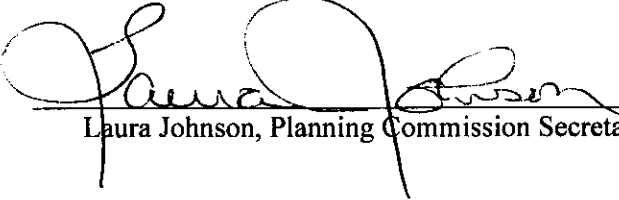
None

NEW BUSINESS:

Recommendation to reappoint Kurt Skjerven to the Planning Commission for a second term. **Motion was made by Joel Hildebrandt, seconded by Dave Steichen, and unanimously carried, for recommendation of Kurt Skjerven to a second term.** Recommendation will be given to the Board of Commissioners for final approval.

ADJOURNMENT:

On motion by Brent Berg, seconded by Ashley Heng, and unanimously approved, the meeting adjourned at 8:47 PM.



Laura Johnson, Planning Commission Secretary