

CLAY COUNTY PLANNING COMMISSION MINUTES
7:00 PM TUESDAY, MARCH 19, 2024
THIRD FLOOR BOARD ROOM, CLAY COUNTY COURTHOUSE

Members Present: Ezra Baer, Joel Hildebrandt, Laura Johnson, Sebastian McDougall, Ashley Heng, Brent Berg, David Steichen, Brad Eldred, Jenny Mongeau

Members Absent: Curt Stubstad, Kurt Skjerven

Others Present: Matt Jacobson, Erika Franck, Daniel Zavoral, Jeff Brooks, Tracer Bowar, Josh Carlson, Mark Ciernia, Darcy Green, Jordanne Hogenson, Gordon Fevig, Kevin and Brenda Harder (by telephone) Phone #701-205-8811

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 Laura Johnson, and unanimously carried, the Agenda was approved.

APPROVAL OF MINUTES OF FEBRUARY 20TH, 2024:

On Motion by Sebastian McDougall, seconded by Ashley Heng, and unanimously carried, the February 20, 2024 Minutes were approved.

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 Brad Eldred, seconded by Sebastian McDougall, and unanimously carried, the Planning Commission opened the public hearing.

Matt Jacobson, Planning Director, advises no public input has been received on the Development Code Update since the February 20, 2024 meeting.

Director Jacobson advised that the County is currently working on updating the Development Code, which was last updated in 2012. There has been a Development or Zoning Code since the 1960s and has been periodically updated since. The County also recently updated the County Comprehensive and Transportation Plan. The Development Code and the Comprehensive Plan work together to govern land uses and development standards within the County.

Directions were given on how to access the online survey for the Development Code update. The County website was updated in the past month.

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

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

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

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

Matt Jacobson, Planning Director, stated this request is to amend an Interim Use Mining Permit. The following considerations were reviewed from the 2045 Comprehensive Plan:

Natural Resources and the Environment: Aggregate Resources

- #1 Recognize the importance of aggregate resources to Clay County and the region
 - a. Implement policies and standards to ensure sound stewardship of aggregate resources and natural biotic 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. 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 198-acre property in Flowing Township is zoned Agricultural General (AG) and Resource Protection-Aggregate (RP-Agg). The current use is cultivated agricultural and gravel mining. No buildings are located on the property but there is a center-pivot irrigator.

Director Jacobson gave the following background information on this gravel mining pit:

- May 21, 2013 The pit was granted an Interim Use Permit (IUP) for 40-acre gravel mine consisting of 30 acres of excavation and 10 acres for topsoil storage, screening, stockpiling, etc.
- April 19, 2022 The pit was granted an after-the-fact IUP Amendment for a 70-acre gravel mine, consisting of 62 acres of excavation and 8 acres for topsoil, storage, screening, stockpiling, etc, with a mean depth of less than 10 feet.
- April 11, 2023 A request to amend the IUP to extend its duration for another year was approved.
- Summer 2023 The mine had been expanded to a total of 101.7 acres
- Currently There are 76.8 open acres and 24.9 reclaimed acres within the mine
- February 20, 2024 The County made a decision of no need for an Environment Impact Statement (EIS) based on the applicant's submission of an Environmental Assessment Worksheet (EAW). The active permit expires on April 11, 2024.
- The Applicant did request after-the-fact variances to the 100-foot property line setback shared with parcel 08.025.4000 (Stock Land Company LLC) and the 200-foot road right-of-way setback for 170th Street North. Those requests were heard by the Board of Adjustment on Tuesday, March 19, 2024, immediately preceding this Planning Commission meeting.

The Applicant is currently requesting an IUP mining permit for 159 acres and intends to expand the existing approximately 102-acre mining operation by 57 acres. The expansion will occur within the south and east areas of the parcel with an average mining depth ranging from 5 to 10 feet. Sand and gravel products to be mined include an estimated 500,000 cubic yards of fill sand, rock and screened sand for the Fargo-Moorhead market, as well as the Taracon Precast Concrete facility in Spring Prairie Township. The area will be mined with a dozer, excavator and front-end loader. Material will be screened and potentially crushed. Topsoil will be stripped, stockpiled and seeded until the mining area is reclaimed. The current IUP limits activity at the site from April through December; however, it does appear that hauling has been occurring outside of this timeframe.

Reclamation has started and is proceeding in a clockwise manner and is now complete for Phase 6 and part of Phase 5. As areas are mined out stockpiles are depleted and open areas are no longer needed for staging purposes.

The primary haul route will be south on 170th Street and west on CSAH 26. A secondary haul route would divert south from CSAH 26 on TH 9 and east on 70th Ave N to the Taracon facility. It is estimated 60 to 75 truck trips would be made daily during peak season of June through November. An estimated 10,000 to 14,000 truck trips would be generated annually.

Natural Resource Concerns were reviewed. There are no wetlands within the gravel pit. Significant wetlands, some with high ecological value, are located immediately west and northwest of the mining operation. These areas include two calcareous fens within 1-mile of the operation. The depth to the groundwater table ranges from 0-100 feet, though well logs indicate an average depth of 50 feet. Due to the location of the sand and gravel reserves, the operation will occur well above the water table.

Areas to the north, west and northeast of the mining operation are prime habitat for a variety of protected species (endangered, threatened and species of special concern). Mining operations from the proposed expansion will occur further away from these ecologically sensitive/significant areas than past mining stages.

Reclamation is and will continue to occur in phases as areas are mined out. Dirt and clay from stockpiled material will be spread out over the mined areas to a depth of 0.5 to 1 foot. The reclaimed areas will be returned to previous agricultural land use. The cost of reclamation is \$500/acre.

Joel Hildebrandt confirmed that they are currently actively mining 70 to 75 acres but have reclaimed 25 acres; Director Jacobson confirmed that. Mr. Hildebrandt then asked if the additional acreage is in addition to the original allowed acreage. Director Jacobson explained that anything that has been mined and reclaimed is part of the project and is included in the total acreage allowed and there is no rolling acreage allowance.

Loren Richards was present but had nothing to add at this time.

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

Director Jacobson had recommended 16 minimum conditions for this IUP. He indicated that some of these conditions were different than previous permits, as they are based on the outcomes of the EAW and were also referenced in the Record of Decision for the EIS and, as such, they have been incorporated into the minimum recommended conditions:

1. Permit shall expire on December 31, 2034
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 control fugitive dust within the mining area
5. Operator shall construct a vegetated berm along the north and west side of the mining area to buffer the adjacent high value ecological resources from noise and fugitive dust
6. 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.
7. Operations must comply with all provisions of Wetlands Conservation Act
8. Mining operations, including open pit, staging and stockpiling areas, internal haul roads, and associated structures must not exceed 159 acres. This includes all past acreage that has been mined and reclaimed.
9. A vertical buffer of a minimum of 10 feet between the mine floor and the water table must be maintained and no wash plant operation or de-watering may take place on the site.
10. Operator must control for noxious weeds on site.
11. Require applicant to post a reclamation bond of \$500 per acre
12. Require applicant to reclaim mined out areas as mining activities progress. Require areas to be returned to agricultural production. All areas not returned to agricultural production must be restored to pasture/native grassland.
13. 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.
14. 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.
15. No trees can be removed to allow for mining operations
16. Operations at the site are limited to April through December, 7:00 AM through 7:00 PM, unless prior approval is received from the Planning Department.

Director Jacobson did note that there are no trees on the property so condition #15 can probably be removed.

Chair Baer recommended changing condition #16 to allow year-round operations. Ashley Heng stated that previous permits were allowed for March through November operations. Joel Hildebrandt stated that he would like to see the mining operations kept consistent and that, although this year was an anomaly allowing for year-round work, it usually isn't the norm. Jenny Mongeau concurred. Chair Baer asked to strike proposed condition #15.

Director Jacobson recommended that there be information included to allow for the Planning Department to inspect the site to confirm adherence to the conditions as set out. He also stated that he will be following up with the County Attorney's office to determine if this can be added to all Permits issued. Chair Baer advised that this information should be included in this Permit.

Brent Berg inquired about the setback issues. Director Jacobson confirmed that there were Variances issued at the Board of Adjustment hearing this evening, but the Applicant would have to adhere to the property line and road right of way setbacks not included in the Variance requests. Director Jacobson also advised that, although the Variances were issued, the Applicant is not available to the entire amount of land included in those variances, as this would put them over the allowed total acreage.

Joel Hildebrandt stated he has concerns about the continual habit of this Applicant breaking rules and asking for permission/forgiveness later. He feels it is encouraging that 25% of their operation has been reclaimed at

this time but he would not be in favor of granting 159 acres. Director Jacobson provided a department update earlier this month, and one of the items discussed for future consideration is update of the fee schedule, with a closer look at imposing administrative penalties and fines for certain violations. In reaching out to other Planning & Zoning Directors in other counties, the vast response he received was there was a standard to revoke the permit. Mr. Jacobson stated that this could be higher fees for after-the-fact requests, or fines imposed on the operator per event or per acre; but this is something he is going more in depth in the future and hopes to have something in place in 2024 to present to the Planning Commission and the Board of Commissioners.

The Findings of Fact and Order were addressed and discussed by the Planning Commissioners as they pertain to the requested Temporary Interim Use Permit. Any issues or concerns may be addressed with conditions.

On motion by Brad Eldred, seconded by Ashley Heng, with all in favor except Joel Hildebrandt, the Planning Commission **GRANTED** the Interim Use Mining Permit with the following conditions:

1. Permit shall expire on December 31, 2034
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 control fugitive dust within the mining area
5. Operator shall construct a vegetated berm along the north and west side of the mining area to buffer the adjacent high value ecological resources from noise and fugitive dust
6. 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
7. Operations must comply with all provisions of Wetland Conservation Act
8. Mining operations, including open pit, staging, and stockpiling areas, internal haul roads, and associated structures, must not exceed 159 acres. This includes all passed acreage that has been mined and reclaimed.
9. A vertical buffer of a minimum of 10 feet between the mine floor and the water table must be maintained and no wash plant operation or de-watering may take place on the site
10. Operator must control for noxious weeds on site
11. Require Applicant to post a reclamation bond of \$500 per acre
12. Require Applicant to reclaim mined out areas as mining activities progress. Require areas to be returned to agricultural production. All areas not returned to agricultural production must be restored to pasture/native grassland.
13. 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.
14. 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.
15. Operations at the site are limited to April through December, Monday through Friday from 7:00 AM through 7:00 PM and hauling on Saturday 7:00 AM through 2:00 PM, unless prior approval is received from the Planning Department.
16. The County reserves the right to inspect the property at any time, with prior advanced notice to the property owner, for compliance with permit conditions.

RJ ZAVORAL & SONS, INC – EIS NEEDS DECISION

The Planning Commission will make a determination of the need for an Environmental Impact Statement for the Green Gravel Pit Expansion. An Environmental Assessment Worksheet was completed for the project with the comment period ending on January 25th, 2024. The project is located at Parcel ID: 12.021.1700 the S1/2 of the NE1/4 of Section 21, Township 142N, Range 45W, Hagen Township.

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

Matt Jacobson, Planning Director, stated the purpose of the hearing was to evaluate the Green Gravel Pit Expansion Environmental Assessment Worksheet (EAW) to determine a need for an Environmental Impact Statement (EIS). The proposed project is for a 14.4-acre expansion of an existing 36.4-acre gravel pit, bringing total gravel pit size to 50.8 acres. The lifespan of the mine currently sits at 10-20 years; with expansion the lifespan could potentially be 15-25 years. The property is located in Hagen Township south of the Wild Rice River.

The property is zoned Agricultural General (AG) and Resource Protection-Aggregate (RP-Agg). This use is allowed with an Interim Use Permit in both zoning districts. The subject property is an 80-acre parcel, with most of the parcel in the South ½ of the NE ¼ and approximately 5.16 acres are located on the N1/2 of the NE1/4. Current use is gravel mining and asphalt processing. There is an asphalt batch plant onsite for 2-6 weeks during construction season.

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

- **Natural Resources and the Environment – Aggregate Resources**
 1. Recognize the importance of aggregate resources to Clay County and the region.
 - a. Continue to protect quality aggregate resources from the encroachment of incompatible residential, commercial, and industrial development.
 - b. Implement policies and standards to ensure sound stewardship of aggregate resources and natural biotic 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 mitigation 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 Permit history was reviewed:

- 2010 CUP for 20-acre gravel mine (Minn-Dak)
- 2010 CUP for asphalt batch plant (Minn-Dak)
- 2017 IUP for 39.5-acre gravel mine (Alexandria Gravel Products)
- 2018 IUP for asphalt batch plant (Alexandria Gravel Products)
- 2019 IUP for asphalt batch plant (Zavoral)
- 2019 IUP renewal for 39.5-acre gravel mine (Alexandria Gravel Products)
- 2020 IUP renewal for asphalt batch plant (Zavoral)
- 2021 IUP renewal for 39.5-acre gravel mine (Zavoral)

A Conditional Use Permit (CUP) runs with the land; however, there may be conditions where the CUP is discontinued. Interim Use Permits (IUP) run with the owner and have a termination or end time clause included (date, change of ownership, etc.).

An aerial photo of August 2023 was reviewed showing the setback encroachments for property lines. A drone flight photo of March 11, 2024 was reviewed showing progress being made towards setback restoration.

EAW REVIEW:

Item 6: Project Description

- Mining and reclamation would occur in a phased manner
- Mining occurs above and below the water table
- Topsoil is stripped, stockpiled and stabilized
- Raw material is extracted using excavators and haul trucks, then processed with crushers and screeners and sorted based on material specifications
- Mining below the water table would occur with a dredge system. The average depth for mining is 35 feet below grade.
- Material is washed using pumped water. Wash water is returned to onsite basins. No water will be discharged offsite (as has been done prior to 2021, with State water appropriations permit)
- New Interim Use Permit would be required
- A Variance would be required to access the 5.16-acre project area in the N1/2 of the NE1/4. This Variance cannot be granted without written consent of the adjacent landowner.
- Project proposer holds a National Pollutant Elimination Discharge System (NPDES) Permit, a State Disposal System Permit (SDS), a DNR Water Appropriations Permit, and a DNR Air Emissions Permit.

Item 7: Climate Adaptation and Resilience

- Minnesota's climate is anticipated to become warmer and wetter
- Project would include construction of stormwater best management practices to provide resiliency to mega-rain events to contain any water to infiltrate into the ground
- Post-mining landscape will increase capacity to hold stormwater and runoff through the creation of wetlands

Item 8: Land Cover Types

Of the 86 acres on the property, the biggest changes to land cover anticipated would be an increase in open water and decreases of impervious surfaces (staging areas, roads, etc.). Open water would increase from 10.2 acres to 46.5 acres. Brush/grasslands would decrease from 25.2 acres to 17.2 acres. Impervious surfaces would decrease from the current 16.8-acres to 1.0-acres.

Item 9: Land Use and Compatibility with Comprehensive Plans

- Surrounding landscape is rural residential, agricultural (cropland, feedlots, pasture), gravel mines, rural vacant and natural areas
- There are approximately 3.7 acres of farmland of statewide importance and 4.8 acres of prime farmland, if drained, in the project area.
- The project area is zoned Agricultural General (AG) and Resource Protection-Aggregate (RP-Agg). The purpose and intent of the Resource Protection-Aggregate Overlay Zoning District is to protect and prioritize aggregate resource extraction.

A map was reviewed showing the farmland of statewide importance and also showing the prime farmland if drained.

Director Jacobson pointed out that one of the determinations that the Planning Commission would need to make is that the requested project is compatible to the area's current needs and activities, as indicated in the 2045 Comprehensive and Transportation Plan Goals and Objectives.

Item 11: Water Resources

- Small, incidental wetlands in the project expansion area
- Intermittent/ephemeral stream is running through the project area. One-hundred-foot (100') setback is to be maintained from this stream, per their current permit. This setback has not been maintained in the past but there is currently work to remedy that.
- Incidental lakes occur in the project area as a result of past mining activities
- A wetland delineation has been completed

- A wetland consultation with the County Wetlands Conservation Act Coordinator (SWCD) is required. A wetland delineation has been completed. The County SWCD would need to accept the wetland delineation.

A map was reviewed of the open wetlands currently on the property, including lakes, streams and shallow wetlands.

- Depth of groundwater in the project area ranges from -1 to 31 feet below grade
- There are 10 domestic wells within 1-mile of the project area with depths ranging from 54 feet to 196 feet

Item 13: Rare Features

- No sites of biodiversity significance within 1-mile of the project area
- Prairie Chicken booming grounds are approximately 1-mile southeast of the project area
- Potential for state endangered loggerhead shrike habitat in the project vicinity but not in the project area
- Noxious weeds have been reported as a concern and must be controlled

Minnesota Biological Survey doesn't identify areas of biological significance in the project area or vicinity.

Items 15-17: Air, Noise, Odor and Visual Impacts

- Air Impacts: Fugitive dust (from pit, stockpiles and hauling), diesel fuel, generator, and batch plant emissions
- Applicant must comply with State air permit
- Noise: Equipment (crushers, pumps, front-end loaders, excavators, bulldozers, trucks). Noise from crushing and pumps area noted current complaints.
- Odors: No odors anticipated from project expansion, but odors have been observed from the batch plant. Odor is a noted complaint.
- Visual Impacts: Pit and stockpiles are visible from surrounding properties and County 27. Complaints noted regarding asphalt stockpile.

Item 19: Cumulative Impacts

- The environmental impact of a project that results from its incremental effects, as well as the effects of other projects in the past, present and foreseeable future.
- Project expansion is relatively small and would likely result in a minor extension to the mine lifespan.
- Cumulative impacts were addressed in other EAW items
- Fugitive dust is likely to have the biggest impact and would need to be controlled
- The asphalt batch plant is considered a connected action and will be addressed through permitting. The current permit expires February 25, 2025.

Item 20: Transportation

The project will not involve the creation of parking spaces. Approximately two to four employee vehicles would travel to/from the project area per day. The following estimates have been developed for gravel and Hot Mix Asphalt trips:

Gravel:

- During operation – (20,000 tons/year)
- Estimated Average Truck Trips/day – 110
- Average Yearly Duration – 8 days

Hot Mix Asphalt:

- During operation – 70,000 tons/year
- Estimated Average Truck Trips/Day – 145
- Average Yearly Duration – 21 days
- Estimated Peak Truck Trips/Day – 215

Note: Typically, the gravel and hot mix asphalt operations do not occur simultaneously.

The primary haul route is south on County 27, then east or west on CSAH 34 to State Highway 9 or State Highway 34. The route would also extend further west on CSAH 34 to the Fargo-Moorhead area.

Comments have been received from the MPCA and the MN DNR. There were also several comments received from the public. Responses have been drafted and will be sent to each commenter. The MPCA mentioned stormwater treatment methods, which the project does have state permits for. The Minnesota DNR commented on the Wild Rice River and various wetlands, indicating that there would need to be 100-foot vegetative buffers maintained. They also mentioned the calcareous fens, the loggerhead shrikes and also reclamation plans. Director Jacobson went through these comments and responses in detail.

A letter was received from Josh and Mollie Green Larson regarding the 5.16-acre expansion into Daniel Green's property. Director Jacobson pointed out that, although the 5.16 acres was addressed within the EAW, it is not currently permitted for mining. With any Variance, the adjacent landowner needs to give written permission for the Variance request. There were concerns about the setbacks for the wetlands/river. Director Jacobson noted that there would need to be a site visit with the Wetland Conservation Act Coordinator. This letter also noted the smell from the asphalt batch plant. Director Jacobson recommended a nuisance review or nuisance study to look closer at these issues. Ashley Heng asked who runs a nuisance study and how long that would take. Director Jacobson indicated that the proposer and the County can coordinate with the Minnesota Pollution Control Agency Industrial Division to address these issues. This study would need to be done during asphalt batch plant operation times. There were also complaints regarding the following items: Zavoral not following rules required by the County or Township, running equipment outside of specified times, not maintaining dust from crushing or dust from the roads, potential safety issues with trucks pulling out in front of a vehicle. There were comments regarding the previous operator; as a County, there have not been many comments received in the past, other than occasional road issues. However, there have been a lot of public comments received regarding this EAW notice. The County has a good working relationship with Hagen Township on addressing issues.

Director Jacobson advised that the County is considering additional compliance inspections through the Planning & Zoning office, possibly spending the entire day during operational hours of the batch plant. The project proposer made requests to the Highway Department and Sheriff's Department to lower the advisory speed limit on that road from 40 to 30 for safety and dust concerns. Director Jacobson also recommended that the County Ag Inspector inspect the weeds at this site and make conditions regarding weed control when the permit is renewed.

A letter received from Barbara Green Erickson commented regarding destruction of virgin acres of land. Director Jacobson cited the Comprehensive Plan regarding RP-Agg.

A letter from Godon Fevig pointed out the concern for more gravel pits in the area, stating there are at least four (4) gravel pits within the surrounding 2 miles. Mr. Fevig also shared concerns about the length of a pit being able to be operational. Director Jacobson referred back to the Comprehensive Plan regarding RP-Agg considerations. There is currently one Township within Clay County that limits operational gravel pits to a maximum of 4 at any one time.

Letter from Karen Fevig shared they are not wanting any more gravel pits in Hagen Township or any expansions of existing pits. Director Jacobson cited the Comprehensive Plan RP-Agg considerations. He stressed that cumulative impacts really need to be addressed when looking at permitting gravel pits. Ms. Fevig addressed the limited visibility on the roadway when the gravel trucks pass by. County Engineer Justin Sorum stated that the operator has been very proactive if there are issues that arise with the road maintenance and dust situation.

Sebastian McDougall inquired how many other gravel operators use the same road. Director Jacobson stated that 27 only has this operator on it. There will be another pit opening later this spring that was recently permitted, and this will be a 10-acre maximum for a year or two, which will also utilize part of that roadway. Ms. Fevig brought up concerns about the smell from the batch plant and Director Jacobson again discussed a nuisance review.

Letter from Daniel and Marilyn Green addressed noise from the pit and operations at the site, wildlife that have left the area, Operator running past the allowed hours of operation and how this has affected the neighbors, neighborhood and young children in the area. Director Jacobson states Zavoral aims for compliance and went over points within the response. This comment letter included concerns about the water source and the adverse effect to the area wildlife. Director Jacobson reiterated that Zavoral does not directly discharge to the stream and the dredge method will be used to replace the need for dewatering. Again, Director Jacobson indicated that the County intends to complete a site visit with the Wetland Conservation Act (WCA) Coordinator in spring 2024 to review the conditions in the subject area. This letter again addressed the asphalt plant odors. Dust issues were addressed. There was another comment about ownership, which is not addressed within the permitting or the EAW process.

Letter from Darcy and Melissa Green addressed dust concerns and the resulting poor air quality, as well as noise described as "overwhelming at times". Dust concerns would be as previous comments set out. The County has done noise compliance testing in the past for other projects and has the ability to do so for this project. Noise can be measured from the residential surrounding areas and not just on the site itself. Planning & Zoning has worked with the Minnesota Pollution Control Agency to use equipment and training to conduct noise tests to be sure the Operator is in compliance with State noise rules. Other comments were regarding the dust and the smell from the asphalt plant.

Letter from Earl Hodson states opposition to the expansion due to excessive noise from crushers and equipment, excessive smell from the asphalt batch plant and the bad condition of the road going past the gravel mine parcel. Director Jacobson addressed that the EAW hearing is for the pit expansion only and does not address issues with the batch plant; however, citizen concerns regarding the asphalt plant could be taken into consideration at a future Interim Use Permit hearing for same. The current asphalt plant permit expires February 25th, 2025.

Letter from Jordanne Hogenson addresses the biggest concern for their family and farm is the amount of water that the pit has been using. She also points out that they have 4 young children and the increased traffic, dust and noise from the pit are concerning as well as negatively impacting the environment. Director Jacobson outlined his response to these concerns as previously addressed.

Letter from Harley Green listed the following concerns: 22 residents in the 2-mile radius area, well water, one well that has quit flowing, constant noise, dust from rock crushing not being controlled, property taxes increasing while property values have decreased. Director Jacobson reiterated the Water Appropriations Permit being held and no dewatering onsite. While most of these comments have been addressed in prior letter reviews, the issue regarding increased taxes with decreasing property values would be better addressed through the County Assessor office.

Letter from Emily Green Jacobsen outlined concerns about the endless noise and air pollution, unsafe conditions causing animals to leave the area and destroying their habitat, natural plants and flowers have been negative affected due to the dust and pollution, impacts to the family's pastures and cropland that are negatively impacted by the dust, chemicals and misuse of land which has negatively impacted her family's livelihood, and the vigorously flowing waterway that has all but disappeared.

Director Jacobson set out the responses to these concerns as outlined in previous letters and again reiterated WCA Coordinator site visit, as well as compliance visits by Planning & Zoning.

The decision of need for an EIS is based on Findings of Fact determined by the Planning Commission. Considering the potential environmental impacts outlined and addressed by the EAW, comments received from the public and state agencies, staff recommendation is to issue a negative declaration of the need for an EIS based on the following findings:

1. The project will occur on agricultural/industrial land that does not contain any significant ecological resources.
2. Though there are several ecological resources and sensitive species within a one-mile vicinity of the project the duration and scale of the project should not have an adverse impact on these resources for the following reasons:
 - a. The project will expand an existing gravel pit from 36.4 acres (including open and reclaimed areas) to 60.8 acres.
 - b. The anticipated life of the pit is 10-20 construction seasons. Areas would be reclaimed in phases and new wildlife habitat would be created as a result.
 - c. Fugitive dust on roadways and within the pit will be controlled.
3. County Road 27 will be maintained and in good working order. Dust control and regular road maintenance will be utilized. The Clay County Highway Department states that the operator has exceeded requirements and standards for maintaining the road.
4. The project proposer will need to apply for an interim use mining permit from Clay County. Before applying for an interim use permit renewal, RJ Zavoral and Sons Inc must complete the following:
 - a. Conduct a wetland consultation with the County Wetlands Conservation Act Coordinator
 - b. Complete restoration of all setback encroachments
 - c. Provide evidence that a nuisance study has been initiated for the asphalt batch plant operation
5. Conditions for the permit pertaining to the information contained in the EAW should address:
 - a. Compliance with all extractive use standards as defined in the Clay County Land Development Code
 - b. Control and removal of noxious weeds within the project area
 - c. Installation of berms to mitigate noise, dust and visual impairments from nearby residences
 - d. Implement a phased-reclamation approach to minimize the open pit area

Sebastian McDougall inquired about when RJ Zavoral & Sons purchased this parcel and Director Jacobson advised it was purchased in 2021. It appears that the comments and concerns resulted from a combination of the previous operator and the current owner/operator. Director Jacobson indicates that Zavoral has been very responsive in addressing any items he has brought to them but acknowledged that the area residents are more impacted by the issues presented.

David Steichen states that the complaints are real issues for the area residents. He feels the contractors know the rules, the boundaries and the conditions but feels that there should be more consistent compliance and less violations. Mr. Steichen feels that enlarging the pit will extend the current problems. He expressed frustration when the gravel operators do as desired and then present for "forgiveness" for the problems created.

Jenny Mongeau feels that the County isn't blatantly allowing violations without a recourse of remediation and cited enforcement as a reason for the addition of staff capacity in the Planning and Zoning Department as well as the hiring of Director Jacobson.

Director Jacobson advised that the situation before the Planning Commission tonight is to determine if the EAW is adequate or if the need for an Environment Impact Assessment is required. An EIS would address the items presented as concerns or nuisances. RJ Zavoral and Sons Inc currently has an active Permit for mining, as well as an active Permit for the asphalt batch plant, which expires in 2025. The Interim Use Permit for the mining expires in 2026.

Joel Hildebrandt asked about addressing the water issues. Director Jacobson indicated that Findings of Fact need to be established that address the Planning Commissions reasons for the needs decision. Conditions may be placed for compliance of all Permit conditions. If there is determined to be a need for the EIS, the reasons need to be included and stated in the Findings

Brenda Harder called in to the meeting. She states they live across the road and have approximately 100 acres. They had previously had livestock but have since sold them. She advised that they are not able to enjoy being outside. The trucks are lined up on the road trying to get into the pit. Ms. Harter states that they haven't complained previously because they did know who to complain to. She indicated she now has Director Jacobson's phone number and will be following up directly with him. Elderly parents that live with her family are unable to be outside due to the air quality concerns, in addition to the noise issues. These issues also impact her grandchildren. The problems continue through most of the summer. When meeting the water trucks, they do not turn off their water solution and it gets splashed onto their car. Her husband has approached the water truck driver in the past. She feels that their property taxes increase while their property values decrease.

Josh Carlson of 17777 200th Str N, Ulen, stated his wife, Mollie Green is the daughter of Daniel Green (the owner of the 5.16 acres on the adjacent parcel). Mr. Carlson indicated that he and his wife are in the process of purchasing 80 acres from Daniel Green for their family ranch. They have a 1-yr old son with chronic lung disease who wants to be outside but is unable to enjoy this. He also brought up concerns regarding the stream that now has an impacted flow. There is a sealed well that no longer works and have needed to run a new well to get water for their cattle.

Mark Ciernia, of Hagen Township Board, advises there is a lot of gravel in Hagen Township and noted that the intensity of the gravel mining is increasing. He feels most of the issues currently are with the asphalt plant, which can be addressed next year. He feels many people within Hagen Township would be happy to relocate this asphalt plant to a more remote area. Mr. Ciernia inquired about the original Permits being Conditional Use Permits and wanted to know if any of those CUPs are still valid. Director Jacobson advised that the CUPs are valid if the use is started within one year of the issuance date and unless there is a period of inactivity greater than one year. The original Permit was for a 20-acre pit, but this pit is well beyond 20-acres so that would invalidate the original CUP.

Darcy Green states he lives directly south of the asphalt plant. He states that his property has been in the family for over 100 years and would like to keep it in the family but the noise has been difficult. He has contacted the County Planning & Zoning office for complaints regarding the noise, asphalt and dust and feels that he does get results when he has contacted that office.

Jeff Brooks, Aggregate Manager of RJ Zavoral & Sons Inc, states that there are issues with operations but he feels that in the last couple years they have addressed many of those issues and are trying to move forward. He stated that the nature of the industry can not be friendly to residents but he takes pride in working with them the best they can. They have an investment in the land and will do whatever they can to work with everyone. He feels it is a hard space to maintain profitability and make surrounding residents happy. He feels they are willing to do what they can to be able to continue operations and work with the residents and also be environmentally safe. They have had a couple meetings recently to work with the Township and he acknowledges the effects on the residents. The asphalt plant is required to operate within certain federal and state parameters. He recalled talking with Josh Green, who complained to him about odor. Mr. Brooks asked if Mr. Green could smell the plant at night, to which Mr. Green responded affirmatively. Mr. Brooks said that they will continue to look for solutions to reduce impacts to area residents.

Jordanne Hogenson lives directly to the south of the operation. She states that they don't have as many complaints as the others, and they do spend their entire summers outside without much issue. She would like to see further environmental studies. She did point out that she wants it to be known that all of the people complaining are directly related to the Green family that previously sold the pit to RJ Zavoral & Sons Inc. Dan Zavoral, secretary of RJ Zavoral & Sons Inc, thanked the Planning Commission for allowing the presentation of their Environmental Assessment Worksheet. This is the first EAW they have gone through. He praised Director Jacobson for his assistance and feels that Mr. Jacobson is watching for the County and its residents best concerns. Mr. Zavoral stated the pit was in "shambles", was very unorganized and required a lot of work. They have met with Director Jacobson and included Zach Bopp, their previous environmental, staff to work through issues caused by the previous operator. They have implemented calcium chloride dust control on haul roads and in front of residences. They have helped the Township out with other operators lacking with their road maintenance. Hagen Township Planning Commission had a meeting for reading of their new extraction rules and they were the only contractor in attendance. The next evening there was a Hagen Township meeting and they were in attendance and didn't hear any of the negative comments that were included in the EAW. Mr. Zavoral advised that they have made strides in improving the conditions at the pit and will continue to do so. They have removed much of the asphalt wrap material and are very close to being outside of the road encroachment zone. Mr. Zavoral stated he looks forward to working with Director Jacobson.

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

Chair Baer stated he feels that, given the various concerns outlined in the discussion, there appears to be a warranted need for the EIS to look further into the dust, noise, water, and smell/odor issues. Chair Baer asked about the duration of an EIS. Director Jacobson responded that an EIS is very intensive and expensive and could take over a year. Chair Baer asked if part of the EIS would need to be completed while the asphalt batch plant was operating. Director Jacobson stated that yes, if the Planning Commission thinks that the batch plant should be included as part of the study. Chair Baer agreed and asked the planning commissioners if they concurred. Dave Steichen concurred, citing the batch plant as a big concern. There was no disagreement from other members of the Planning Commission.

On motion by Dave Steichen, seconded by Joel Hildebrandt, to recommend the EIS is warranted. Director Jacobson advised that the Motion would be that the Planning Commission would need to pass a resolution stating a positive declaration on the need for an EIS based on a set of Findings. Director Jacobson recommended amending the Motion. Jenny Mongeau recommended withdrawing the motion.

Upon request by Chair Baer, Dave Steichen withdrew the Motion from the table with unanimous roll call vote.

On motion by Dave Steichen, seconded by Joel Hildebrandt, and unanimously passed, Resolution 2024-2 recommending a positive declaration for a need for an Environment Impact Statement (EIS) was approved.

UNFINISHED BUSINESS:

None.

NEW BUSINESS:

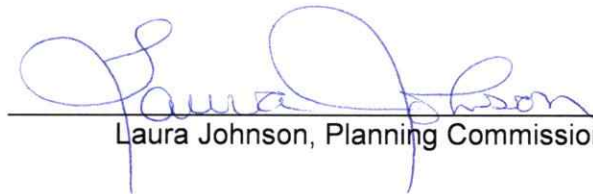
- There was a Township Office Meeting on Monday, March 18, 2024. Director Jacobson gave an update on 2023 highlights regarding permitting, Use Permits, Variances, Subdivisions and also looking ahead to the Development Code Update.

There was also discussion about some upcoming Wind farm projects. There is the one previously discussed by RES near Hawley, and Cold Water Renewables is looking to develop a wind farm west of Barnesville. There will be an open house at Pitchfork in Barnesville in April.

- Study Review Committee will be meeting Monday, March 25th at 4:00 PM.

ADJOURNMENT:

On motion by Ashley Heng, seconded by Brad Eldred, and unanimously approved, the meeting adjourned at 9:10 PM.



Laura Johnson, Planning Commission Secretary