

**CLAY COUNTY PLANNING COMMISSION MINUTES
7:00 PM TUESDAY, JULY 16th, 2024
THIRD FLOOR BOARD ROOM, CLAY COUNTY COURTHOUSE**

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

Members Absent: None

Others Present: Matt Jacobson, Michael Leeson, Justin Sorum, Erika Franck, Rita Rueckert, Leah Skjerven, David Sigler, Parker Jacobsen, Dean Jacobsen, Paula Jacobsen, Jacki Loeffert, Tom Loeffert, Anna Sather, Valerie Schuck, Mark Schuck, Paul Krabbenhoft, Todd Breidenbach, Aaron Stenerson, Darrell Vasek, Vesha Coffey-Vasek, Gail Hall, Roland Hall, Roger Larson, Charlie Stettelman, Vi Mai

ROLL CALL:

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

APPROVAL OF AGENDA:

Agenda requires correction stating that the Minutes will be approved for June 25, 2024. On motion by Jenny Mongeau, seconded by Brad Eldred, and unanimously carried, the Agenda was approved with correction.

APPROVAL OF MINUTES OF JUNE 25th, 2024:

On Motion by Joel Hildebrandt, seconded by Sebastian McDougall, and unanimously carried, the June 25th, 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 Ashley Heng, seconded by Kurt Skjerven, and unanimously carried, the Planning Commission opened the public hearing.

Matt Jacobson, Planning Director, advised there has not been any input since the last meeting.

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

FARM IN THE DELL OF THE RED RIVER VALLEY – REQUEST FOR CONDITIONAL USE PERMIT

The applicant is seeking an after-the-fact conditional use permit for a retreat center to host events on Parcel ID: 23.011.3601 in part of the NW1/4 SW1/4, Section 11, Township 140N, Range 48W, Oakport Township.

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

Director Matt Jacobson stated that the request is for a retreat event center. The relative 2045 Comprehensive and Transportation Plan criteria for this request are:

Community and Resilience

1. Promote personal and community health for all residents.
- c. Encourage practices and activities to achieve healthy food access for all residents.

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.

The Zoning for this property and surrounding properties are Agricultural General. There is currently an approximately 12,000 sq ft agricultural building, a bathroom/utility building currently under construction, a hoop house and a market stand on the property.

The Farm In The Dell of The Red River Valley is a working farm that gives people with disability to volunteer, employment and skill development opportunities. There are Community Support Agriculture (CSA) that occurs on site. They have expanded their mission to host occasional events ranging from 3-4 farm-to-table events, workshops and a fall festival. These events are second to their primary mission of a working farm for people with disabilities. Although this is not a formal event center, the events hosted on the property are similar to those held at other event or retreat centers and are subject to permitting and regulatory standards.

The definition of a Retreat Center per the Development Code is: **RETREAT CENTER: A semipublic use oriented to using the natural features and outdoor character** of the area for short term stays and featuring **educational**, contemplative and human development workshops; life events (i.e. weddings, reunions, birthdays); passive recreation (non-motorized) oriented to appreciating the outdoor and natural character of the area; a nature center, conservatory, interpretive center, exhibit, museum or library space; residential building(s) (rooms or cabins) for short term occupancy by a single family or unrelated individuals attending an education or life event or workshop at the retreat (but not designed or intended for use as a residence); and/or having **limited communal facilities** for dining, sanitation, meeting, educational or worship purposes.

The request from the Applicant is to host various public events. A site map of the location was reviewed. Most of their events occur outdoors, but they do have a large building onsite which they also occasionally utilize.

The Board of Adjustment granted a variance earlier this evening for setback from the nearest residence.

Structures to be used include the barn and bathroom structure. Note, they may need to meet Department of Labor and Industry structure, fire, electrical, plumbing, accessibility, and other requirements for places of public accommodation to use these structures. There is a gravel parking lot as well as overflow grass parking.

There is a narrow access along the dike from County Highway 9. Portable toilets are used for events until bathroom structure building is completed. The onsite well has not been tested to ensure safe drinking water supply. Water and food for volunteers and events are catered onsite.

Jenny Mongeau inquired about the mention of the Department of Labor. Director Jacobson advised he has been working with the Department of Labor to ensure compliance for the Applicant for codes regarding places of public accommodation.

Anna Sather is the Executive Director of Farm In The Dell. She gave an overview of their mission. They have 5 events scheduled for this year, where people would spend most of their time outside. They would not create a noise problem. All food and water are catered in. They have had volunteers direct traffic at past events.

Dave Sigler is the Chairman of the Board and he advises that an additional access request has been given approval and they are working at putting that access in now.

Chair Baer asked if there was a limit to the number of people they are allowed in attendance to an event. Director Jacobson advised they have plenty of space available. However, as far as the structure is concerned, that would need to be approved by the Minnesota Department of Labor and Industry to be sure everything is up to code. Mr. Sigler advised that neither Farm In The Dell or Director Jacobson have been able to directly connect with the contact person at The MN Department of Labor and Industry and they will continue efforts on that.

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

The Findings of Fact and Order were addressed by the Planning Commission as they pertain to the requested Permit. Any items of concern may be addressed through Conditions.

Minimum staff recommended Conditions:

1. Retreat Center must be in compliance with all relevant standards in the Clay County Development Code.
2. Applicant must provide a detailed parking plan to the Planning Office for review and approval.
3. The Retreat Center must receive, if applicable, all relevant licensure and permits from the Department of Labor and Industry.
4. The facility must receive all relevant licensure and permits related to food, beverage, lodging, and sanitation from the Clay County Environmental Health Department.
5. No sound amplification is allowed onsite after 10:00 PM daily.
6. The facility will be used for temporary events only not to exceed 14 consecutive days.
7. The Retreat Center must have well tested and ensure that safe drinking water standards can be met if potable water is to be provided from well onsite.
8. Any other conditions the Planning Commission deems necessary.

Dave Steichen advised that he has been onsite during events and parking has not been an issue.

On motion by Dave Steichen, seconded by Brad Eldred, and unanimously carried, the Planning Commission *GRANTED* the Conditional Use Permit with the following conditions:

1. Retreat Center must be in compliance with all relevant standards in the Clay County Development Code.
2. Applicant must provide a detailed parking plan to the Planning Office for review and approval.
3. The Retreat Center must receive, if applicable, all relevant licensure and permits from the Department of Labor and Industry.
4. The facility must receive all relevant licensure and permits related to food, beverage, lodging and sanitation from the Clay County Environmental Health Department.

5. **No sound amplification is allowed onsite after 10:00 PM daily.**
6. **The facility will be used for temporary events only, not to exceed 14 consecutive days.**
7. **The Retreat Center must have well tested and ensure that safe drinking water standards can be met if potable water is to be provided from onsite well.**

ALAYNA STENERSON – REQUEST FOR CONDITIONAL USE PERMIT

The applicant is seeking a conditional use permit for a commercial storage business and outdoor storage yards for materials accessory to a commercial storage use on parcel 06.005.3600, in part of the SW1/4 SW1/4, Section 5, Township 138N, Range 47W, Elmwood Township.

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

Director Matt Jacobson advised the request is for a Conditional Use Permit for a commercial storage facility. Criteria from the 2045 Clay County Comprehensive and Transportation Plan 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.
 - 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.

The property is zoned Agricultural General (AG) and Resource Protection – Wellhead Protection (RP-WHP). This use may be allowed by a Conditional Use Permit (CUP). The property is 101.7 acres, with approximately 5 acres of it to be used for a commercial storage business. The current use of the entire parcel is agricultural land and there are no structures onsite. It appears that all required setbacks could be met. The proposed five-acre site or the building plan would likely need to be modified to meet the 125-foot road centerline setback.

There was a Petition for Text Amendment approved in June 2024 by the Planning Commission and Board of Commissioners. As part of that Petition for Text Amendment, the standards and definition for Commercial Storage Units was created. That Amendment permits Commercial Storage Units as a Conditional Use in the RP-WGHP Overlay Zoning District.

The site plan includes nine storage buildings totaling 56,700 square feet of indoor storage. Six buildings would include individual units and three would accommodate recreation storage for boats, RVs, campers, etc. Access would be from County Road 69 (70th Avenue South). Construction would occur in phases with the first one to be a 30' by 195' building with individual units. Outdoor storage would be temporary until full plan build-out. They have a Stormwater Plan being developed by a professional engineer.

Additional Use Standards: 8-6-36: Standards for Storage Units:

- A. Storage Units must have direct access to a fully maintained road.
- B. Site Plan: Applications for Storage Units must include a detailed site plan.
- C. The storage structure and surrounding grounds shall be maintained in a clean, orderly and safe manner.
 - a. Hazardous materials must not be stored.
- D. Outdoor Storage must meet the standards of Section 8-6-29: Standards for Storage Yards for Equipment, Machinery or Materials Accessory to Commercial Uses.
- E. Additional Performance Standards for Storage Units in the Agricultural General Zoning District:

- a. Storage Units must be designed and constructed to resemble agricultural or farm buildings similar in the vicinity.

Additional Use Standards: 8-6-36: Standards for Storage Units

F. Additional Performance Standards for Storage Units in the Resource Protection-Wellhead Protection Overlay Zoning District:

- a. Outdoor Storage must meet the standards of Section 8-6-29:
Standards for Storage Yards for Equipment, Machinery or Materials Accessory to Commercial Uses and items containing fuel tanks must be stored on an impervious surface. The Planning Commission may place additional conditions on the number of items stored outdoors.
- b. Storage Units must have a concrete floor.
- c. Sewage treatment systems and wells associated with the use are not permitted.
- d. The Storage Units Use must not be of a size that requires a permanent stormwater retention pond.

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 or 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.
- D. Screening: Outside storage of equipment, machinery, or materials shall be screened so as not to be visible from any residence on adjacent properties.

Development Considerations include:

- A construction stormwater permit and stormwater pollution prevention plan from the State of Minnesota is required (this is a State requirement).
- Access Permit from the Highway Department is required.
- Outdoor storage needs to be screened from adjacent residences.
- Lighting should be oriented towards the ground and shielded to minimize light pollution.

Joel Hildebrandt inquired how the outdoor storage would be handled and if a sunset date on outdoor storage could be added. Director Jacobson advised that outdoor storage would be allowed but there would be certain standards that would need to be considered. The Applicant indicates they intend to have any outdoor storage on the concrete pad for the next building to be constructed, with the final goal to have no outdoor storage.

Aaron Stenerson advised that their end-goal is not to have outdoor storage. Anything with a fuel tank would be parked on concrete. He advised that per the construction industry, gravel would be considered impervious; however, they would have anything with fuel tanks park on concrete. He indicates they live a half mile away and they want to keep it nice-looking so they will have a watchful eye on the property and the happenings on it.

Jenny Mongeau inquired if there were any comments received and Director Jacobson advised there had been none. Curt Stubstad advised that he drives by this area frequently and the Applicant has a very well-maintained property and he does not expect any issues. Director Jacobson advised there had been no comments or response received from the public or the Township.

Minimum staff recommended Conditions include:

1. Applicant shall obtain all applicable local/State/Federal permits/reviews (i.e. Access Permit (Highway), Storm Water Pollution Protection Plan (MPCA), WCA review, etc.) before any construction and shall provide copies of them to the Planning Office.
2. Facility shall meet all applicable requirements of the County Development Code.

3. No more than Fifty-six Thousand Seven Hundred (56,700) square feet is to be permitted for indoor storage.
4. Days and hours of operation shall be year-round, open 24 hours, seven days a week.
5. Buildings shall have appropriate lighting for security that is shielded from adjacent residential properties.
6. Facility signage shall meet County Sign Standards 8-3-13.
7. Units shall be used for private storage only. No business or commercial enterprise shall be conducted out of a storage unit or units.
8. Outdoor storage shall be limited to 10% of the lot area.
9. All outdoor storage shall be screened so as to not be visible from any residences on the adjacent properties.
10. Any other conditions the Planning Commission deems necessary.

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 by the Planning Commission as they pertain to the requested Permit. Any items of concern may be addressed through Conditions.

On motion by Curt Stubstad, seconded by Jenny Mongeau, and unanimously carried, the Planning Commission *GRANTED* the Conditional Use Permit with the following conditions:

- 1, Applicant shall obtain all applicable local/State/Federal permits/reviews (i.e. Access Permit (Highway), Storm Water Pollution Plan (MPCA), WCA review, etc.) before any construction and shall provide copies of them to the Planning Office.
2. Facility shall meet all applicable requirements of the County Development Code.
3. No more than 56,700 square feet is to be permitted for indoor storage.
4. Days and hours of operation shall be year-round, open 24 hours, seven days a week.
5. Buildings shall have appropriate lighting for security that is shielded from adjacent residential properties.
6. Facility signage shall meet County Sign Standards 8-3-13.
7. Units shall be used for private storage only. No business or commercial enterprise shall be conducted out of a storage unit or units.
8. Outdoor storage shall be limited to 10% of the lot area.
9. All outdoor storage shall be screened so as to not be visible from any residences on the adjacent properties.

CHARLES STATTELMAN – REQUEST FOR INTERIM USE – HOME OCCUPATION PERMIT

The applicant is seeking an after-the-fact interim use – home occupation permit for a millwork and lumber business on parcel 23.009.4401, in part of the SE1/4 SE1/4, Section 9, Township 140N, Range 48W, Oakport Township.

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

Director Matt Jacobson advised that the request is for an Interim Use Home Occupation Permit to operate a woodwork and lumber business. Comprehensive Land Use Plan criteria reviewed include:

- Land Use – Residential 3. Recognize the diversity of living and working arrangements in the unincorporated areas of Clay County.
 - a. Allow for home occupations in unincorporated areas that are in harmony with the rural character of Clay County.
- 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.

This property and surrounding properties are zoned Agricultural General (AG). An IUP Home Occupation may be allowed in the AG Zoning district if it meets minimum requirements and receives an Interim Use Permit. Applicant intends to use the Ag buildings onsite for their Home Occupation Permit on this 17-acre parcel.

Home Occupant Standards were reviewed:

10. Adverse Effect: The occupation shall not adversely affect the character of the uses permitted in the district in which it is located.
11. Performance Standard: No equipment or processes used in the interim/interim home occupation shall create noise, vibration, glare, fumes, odors or electrical interference detectable off the premises.
12. Buffering: Buffering may be required by the Planning Commission to minimize adverse effects on adjacent properties and roadways.

There is an Outdoor Storage Accessory to a Commercial Use: 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 or 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.
- D. Screening: Outside storage of equipment, machinery or materials shall be screened so as not to be visible from any residence on adjacent properties.

Pre 2013 this property was a farmstead and the owner had personal hobby horses. In 2013 a Variance and CUP was granted for Sundown Stables: Agricultural Service Establishment for a horse boarding facility. In 2021-2022 the property fell into disrepair with dilapidated buildings, abundant weeds, rodents and drainage issues. The Applicant purchased this property in 2023.

Planning staff was made aware on April 24, 2024 that this wood/lumber business had started operating at the site from a township officer who had received a citizen concern. The Planning Office spoke with Charles Stattelmann on May 9, 2024 and informed him of the requirements for a Home Occupation Permit to operate the business as well as operating hours for the business. The Planning Office received additional citizen concerns and a cease-and-desist letter was sent on June 5, 2024. The Applicant advises he has not operated the sawmill since receiving the cease-and-desist letter; however, they have continued to do intensive property maintenance (drainage dirt work). This maintenance work was not restricted in the Planning and Zoning cease and desist letter.

Applicant is requesting to operate a millwork and lumber business known as Hatchet & Co. The Applicant wishes to utilize 3200 square feet of indoor area for production of architectural millwork (wood paneling, beams, furniture, mantels, shelving, etc). He would also like to utilize an additional 7000 square feet for cold storage in an unfinished, non-concreted portion of the same building. The applicant would also be placing a kiln drying structure to the south of the shop area for drying the wood products. The Applicant also plans to utilize an outdoor area of the property for storage of pre-milled and post-milled wood material in the center rear areas of the property. Currently the mill is located in the center of the parcel. The applicant intends to relocate the mill to one of two alternative locations that were indicated on an aerial map.

A site plan layout was reviewed. There is a row of trees for noise buffer but they would also like to add an additional noise buffer. The long-term plan is to be able to convert the sawmill to electric and move it indoors. The mitigation plan is to do noise mitigation such as installing a ten-foot wood fence, piling straw bales, or strategically locating their outdoor wood storage to minimize the amount of noise that leaves the site. They also

plan on eventually upgrading the electricity running to the property and converting the sawmill from gas to electric.

Applicants business employees 3 additional employees. They are requesting that no limit on indoor operating hours as the indoor work is highly variable hours and outdoor operating hours be limited to daylight hours with respect to county code limitations and are negotiable within reason with respect to the general peace of neighboring residences. When pointed out by staff that the daylight hours can drastically change by season, the applicant was amenable to outdoor operating hours of 7 AM to 7 PM Monday to Sunday. They also allow customer hours by appointment only.

The nearest residence is approximately 620 feet to the northeast and two additional residences located approximately 900 feet to the NE and SW of the property. Photos of the current site and lumber operation were reviewed.

Comments have been received from Oakport Township indicating that the business needs to obtain a permit to operate. There have been comments received from one neighbor.

This business previously leased and operated at 1608 1st Avenue North in Moorhead. Enforcement action was initiated by the city of Moorhead in 2020 for large amounts of items and shipping containers onsite; however, not all of those were associated to the Applicant or his business as some of those items belonged to the landowner of that parcel. No noise complaints were received by the City of Moorhead or the Moorhead Police. It should be noted that their previous location had many apartments directly across the street from them on two separate sides, as well as a residential neighborhood of houses one block north.

Minnesota State Fire Code items were reviewed relating to storage, rubbish, waste and associated restrictions.

Charlie Stattelmann lives on the property. He advised one of the reasons they moved from city of Moorhead was they required additional space. He states the sawmill is run inconsistently. He is sympathetic to the neighbors and any noise they encounter and apologized for any disturbance their business may have caused the neighbors.

Jenny Mongeau asked to equate the noise of the sawmill to maybe that of a grain dryer. He states the mill is a gas motor and he believes it is the motor/engine creating the offending noise rather than the actual cutting. The motor is a 65 horsepower on this portable mill. He feels it may need a better muffler than it currently has and likened it to an old tractor noise. It is a Wisconsin air-cooled engine. Curt Stubstad asked how soon an electric motor could be implemented. Mr. Stattelmann advised that he currently has the electric motor but the power to the property has to be upgraded at a significant cost. The electric motor will greatly reduce both the noise and the odor. He is hoping that within a year or two this transition can be completed.

Mr. Stattelmann provided a Sound Mitigation Plan and Director Jacobson read this. Strategic points included in the mitigation plan include:

- Moving the sawmill
- Install additional noise mitigating barriers
- Three insulated walls will be around the sawmill, and a higher quality muffler will be installed.
- Dust collection systems exhausting from the woodshop will be outfitted with duct silencers as well as sound barriers
- Adherence to the outdoor operational hours of the mill

Mr. Stattelmann further stated: The personal activities we have and will continue to undertake in order to make our driveway and yard safe and cleaner may have been mistaken for business operations after we received a letter to cease said operations. It should be noted that much of the machinery we have operated since moving to 7113 28th Str N has revolved around fighting and preventing flooding in and around the buildings and driveways.

Mr. Stattelmann provided before and after photos of the work done on the driveway and yard to improve the water and flooding situation. Director Jacobson noted he witnessed that there were significant water and drainage issues impacting the property when he had visited it.

Chair Baer noted that the property seems to be well-buffered with trees on most sides.

Director Jacobson indicated that the Township discussed this issue at their meeting but they took no action on it.

Darrel Vasek, a neighbor, advised his main concern is noise. He doesn't know what percentage of sound will be compromised by barriers. He also is concerned about dust, fumes and contaminations, what type of chemicals may be used by the Applicant, and that the area is very windy. He feels that there are a lot of health issues from carcinogens, fumes, etc. He stated he moved out to the area for peace and relaxing but feels that operation hours of 7AM to 7PM does not allow much time for relaxation. He feels the activity and additional trucks will make this area more of an industrial zone.

Kasha Vasek, a neighbor to the southwest, advised that sawdust contains carcinogens that can lead to diseases and doesn't feel the sawdust can be contained to the Applicant's property. She stated that they moved to the area to get away from noise and pollution and she feels that the noise and pollution will disrupt their health.

Paula Jacobson read a letter from Tom and Jackie Laffert stating their concerns regarding quality of life, health effects of the burning of wood and impacts on property value issues.

Roland Hall, 3356 70th Avenue, a half mile due east of the property. He states that there are 60+ homes and growing. He indicates they have a 40-foot row of spruce trees around their property but they still hear the noise. He states that he used to be a small business owner and he does wish the Applicant well but he feels that this would turn the area into an industrial park.

Roger Larson advised he has lived in the area for 55 years. He feels the noise is much worse than grain dryers. It is very loud. He also commented about the amount of the horse manure that the Applicant inherited with the purchase of the property. He feels that the manure attracts rats and rodents and adding straw bales will only attract additional rodents.

Dean Jacobson is a neighbor north of the property. His main concerns were the sawmill with the constant humming noise, and the portable sawmill with the loud motor. He wonders why the County and Township didn't have the Applicant start the sawmill so when they visited the property to determine the volume of noise. He questioned the operating hours of 7AM to 7PM seven days a week. He states willingness to work with the Applicant during business hours but definitely is not in favor of any weekend operations. He is also concerned about property values. He added that he checked with the Dilworth Fire Department and there has never been a burning permit obtained, even though the Applicant has frequent burning and fires.

Parker Jacobson, 7330 28th Street North, read a letter. He is concerned about the future of his quality of life and how this sawmill has disrupted his peace and tranquility. He feels the proposed noise mitigation is significantly inadequately. He can hear the noise inside his home and even in his basement. The tree barrier is susceptible to ash borers and contributes additional concerns. He is concerned about living on a no winter maintenance road and having access

Paula Jacobson states she has lived in Clay County for over 60 years. The first time she has heard the sawmill was when she was sitting on her patio listening to music. She has heard the noise when out rototilling. She can hear it in her home while wearing ear plugs late on a Saturday evening. She wonders what will happen once

the leaves come off the trees. She feels this business should be located in an industrial location. She indicated that the County website shows that as of this morning, the taxes are showing as unpaid for this property.

Gale Hall states that the yards are not mowed, the ditches have not been cleaned, the fields used to be alfalfa and nothing has been done with that. She is wondering how long the neighbors have to wait for him to come up with the money to do the work he indicates he will do to minimize the noise but he doesn't currently have the money to even pay his taxes current.

Vi Mai, owner of the property, states she also owns Honey Bee Bridal in Moorhead. She has been with the Applicant for seven years. He has had Hatchet & Co for the past 8 years and it used to be across the street from many apartments without any problems. She stated that Mr. Stattelmann has lived in Minnesota his entire life and is proud to have his business here in Clay County.

Curt Stubstad asked if the sawmill is able to do a dust collector like cabinet shops have and Mr. Stattelmann advised that is a possibility. Chair Baer asked if there are any chemicals being used and Mr. Stattelmann advised that he uses environmentally non-toxic water-based finishes on his wood, and this product is applied indoors.

Brad Eldred asked if there is a decibel limit that could be applied. Director Jacobson advised that there is a noise testing equipment able to be secured from the Minnesota Pollution Control Agency and the sound is measured not at the point of origin but further away. Mr. Jacobson advised permission would need to be secured from the Applicant as well as a neighboring property owner to test the noise decibel. Director Jacobson advised that if the noise decibel level was tested and it was not over the decibel level for noise pollution, there would not be anything able to be done.

Brent Berg asked if there was a muffler on the sawmill and Mr. Stattelmann advised there was. Mr. Berg asked if there was a muffler on the mill when it was being operated within the city of limits of Moorhead and he advised there was.

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

Minimum Staff-recommended conditions include:

1. This permit will terminate if the Applicants close the facility for a period of 12 or more consecutive months or when the property is transferred to a new owner.
2. Outdoor operations are to be limited to 7:00 AM to 7:00 PM, Monday through Sunday.
3. Indoor operations are not limited so long as noise detectable offsite is not in exceedance of the State of Minnesota noise pollution rules.
4. All operations must abide by the State of Minnesota noise rules.
5. Applicant is to abide by the Minnesota State Fire Code.
6. Outdoor storage must comply with Clay County Development Code Standards and is limited to 1.731 acres.
7. Any additional conditions as the Planning Commission sees fit.

Director Jacobson stated that the Findings were drafted with the information known before this hearing and any Findings applied at this time should also take into consideration any additional information discovered during the hearing and any testimony applicable to each individual finding.

The Findings of Fact and Order were addressed by the Planning Commission as they pertain to the requested Permit. Any items of concern may be addressed through Conditions.

Dave Steichen expressed concern about operating after a cease-and-desist order was issued. He feels that getting a muffler that would stifle the noise would be the lowest step of minimization. He likened the sawmill to the sawmill operated at Western Minnesota Steam Threshers Reunion.

There was discussion as to what constitutes requiring a burning permit and when the permit should be secured.

Dave Steichen feels it should be noted about concerns voiced over value of existing homes and that this should be added information to the Findings of Fact and Order, Item #7.

Jenny Mongeau likened this request to be similar to gravel crushing at a gravel pit. However, she acknowledged that this same business was operating within the city limits of Moorhead in a heavily populated area and had no concerns. Joel Hildebrandt feels that the hours should be modified to be more restrictive. Jenny Mongeau agreed that the sawmill could have greater restrictions as it isn't the only component of the business.

Chair Baer recommended limiting outdoor operations from 8AM to 4PM Monday to Friday. All other outdoor business operations hours to be limited to 7:00 AM to 7:00 PM, Monday to Sunday.

Brent Berg stated that he had a cabinet making business and has knowledge and experience on these issues. The newer products are water-based and dissipate in the air within the shop. They are very harmless, unlike the oil-based products that carry much greater risk, of which the Applicant acknowledged. Mr. Berg is interested in noise level testing to see what the results would be and to make determinations based upon those results.

Director Jacobson was asked to differentiate between detectable noise and noise pollution. He also reiterated that when taking noise measurements, they are not measured at the source but away from the source. The MPCA has equipment available that Planning & Zoning staff has been trained to operate. To do this testing, the Applicant would need to run the sawmill, and there would also need to be permission granted by a neighbor for access to do the tests. Noise decibels are regulated between day hours of 7AM to 10 PM on a log-rhythmic scale at 55 decibels. Noise is measured for an hour and there is a variance on this log taking snippets and averages to determine if there is noise pollution.

Jenny Mongeau asked the County Attorney if there was any deviation from the way this particular hearing was noticed and Attorney Michael Leeser stated there was none he was aware of. Ms. Mongeau then inquired if the outstanding tax situation would impact the ability to issue a Permit to the Applicant and Director Jacobson advised he was not aware of tax payment status impacting issuance of any permits.

Brent Berg asked what the ramifications would be if the Applicant's business exceeded the Minnesota Noise Pollution allowance and Director Jacobson advised that if the business exceeds State regulations, they would then need to desist operations.

On motion by Jenny Mongeau, seconded by Sebastian McDougall, and carried by the majority, the Planning Commission *GRANTED* the Interim Use Home Occupation Permit with the following 6 roll-call votes in favor (Berg, Heng, Eldred, Mongeau, McDougall, Baer) and 5 roll-call votes opposed (Stubstad, Skjerven, Johnson, Steichen, Hildebrandt). Chair Baer cast the tie-breaking vote and the following Conditions have been included:

- 1. This permit will terminate if the applicants close the facility for a period of 12 or more consecutive months or when the property is transferred to a new owner.**
- 2. Outdoor operations of the sawmill to be limited to 8:00 AM to 4:00 PM, Monday to Friday. All other outdoor business operations hours are to be limited to 7:00 AM to 7:00 PM, Monday to Sunday.**
- 3. Indoor operation hours are not limited so long as noise is not detectable off-site.**
- 4. All operations must abide by the State of Minnesota noise pollution rules.**
- 5. Applicant is to abide by the Minnesota State Fire code and local fire district regulatory requirements.**

UNFINISHED BUSINESS:

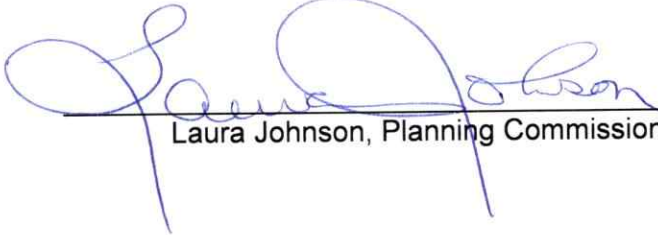
None.

NEW BUSINESS:

Director Jacobson advised there will be land use training sponsored by MCIT the end of August and anyone interested in attending should advise Director Jacobson.

ADJOURNMENT:

On motion by Jenny Mongeau, seconded by Brad Eldred, and unanimously approved, the meeting adjourned at 9:31 PM.



Laura Johnson, Planning Commission Secretary