

**CLAY COUNTY PLANNING COMMISSION MINUTES**  
**7:00 PM TUESDAY, MARCH 18, 2025**  
**THIRD FLOOR BOARD ROOM, CLAY COUNTY COURTHOUSE**

**Members Present:** Joel Hildebrandt, Brad Eldred, David Steichen, Commissioner Ezra Baer (for Commissioner Jenny Mongeau), Kurt Skjerven, Ashley Heng, Brent Berg, Sebastian McDougall

**Members Absent:** Curt Stubstad, Laura Johnson

**Others Present:** Matt Jacobson, Brian Melton, Erika Franck, Justin Sorum, Rita Rueckert, Cody Erickson, Josh Schroeder, Ryan Buchfink (by telephone)

**ROLL CALL:**

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

**APPROVAL OF AGENDA:**

On motion by Brad Eldred, seconded by Kurt Skjerven, and unanimously carried, the Agenda was approved with request for flexibility.

**APPROVAL OF MINUTES OF FEBRUARY 18<sup>TH</sup>, 2025:**

On Motion by Sebastian McDougall, seconded by Ashley Heng, and unanimously carried, February 18<sup>th</sup>, 2025 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 ORDINANCE UPDATE**

The Planning Commission will review and discuss draft Chapters 1-4 of the Clay County Land Development Ordinance Update. Members of the public are encouraged to provide comment during the public hearing or by contacting the Planning Office by phone: 218-299-5005 or email: [planning@claycountymn.gov](mailto:planning@claycountymn.gov) prior to the public hearing. Draft Chapters 1-4 will be available for review online at <https://claycountymn.gov/1805/Land-Development-Code-Update>.

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

Director Matt Jacobson stated that since the time the Hearing Notice went out and this meeting, the draft was received back for review from an attorney retained to review Chapter 6. Subdivisions and Chapter 7. Administration and Procedures. Tonight's focus will mainly be the Chapter 7 as there are significant updates to how this Commission has operated in the past under the previous Code.

The update is basically completed at this time. Comments are still being solicited from other entities, specifically the Minnesota Department of Natural Resources (MN DNR). They have stated there are definitions they wish to see included. They will be sending a conditional letter of approval within the next month and once those changes are made the

The Minnesota Pollution Control Agency (MPCA)/MDA Feedlot Section review is pending with the MPCA.

Director Jacobson is comfortable with the changes made and feels there are just a few minor revisions needed with Chapter 6. Chapter 7 may require more extensive revisions.

Dave Steichen feels the attorney did a very thorough job on their review. He mentioned on Page 3 of the comments regarding the pre-application required meeting. Pre-application meeting requirement is also under Section 8-6-8. Director Jacobson advised that there is a duplication mentioned of this requirement. It is felt this is an important item to retain in both locations. Director Jacobson discussed the requirement of platted subdivisions requiring Township approval before bringing the request or application to the County.

Director Jacobson gave an update on Chapter 4 regarding adding a use for temporary agricultural worker housing. This is being seen in several counties across the State so it was felt this should be added. In this area, there appears to be a need for this seasonal type of accommodations for agriculture workers, H-2A Visa workers, as well as beet truck drivers.

Chapter 4 – Use Regulations also includes the Cannabis Section. Director Jacobson feels that this regulation should reflect what the State regulations require and should be updated as the State updates their regulations to remain in compliance with the State rules. Brad Eldred recommended visiting with Becker County to see what they have adopted. Director Jacobson advised that Clay County has received inquiries regarding cultivation as well as retail. Cultivation, manufacture, wholesale and retail are all considered commercial or industrial uses and would be limited to Highway Commercial/Limited Highway Commercial Zoning Districts.

Director Jacobson advised that last week Buffalo Red River Watershed District (BRRWD) reached out and advised they are considering developing setback rules from drainage ditches within their jurisdiction, particularly to include solar projects. He feels that Clay County may wish to leave that item open on their Ordinance to align with whatever the BRRWD setback requirements are determined to be.

Items reviewed for Chapter 7: Administration and Procedures

- Procedural Consistency
- Review Criteria for Use Permits, Amendments, Variances

- Appeals
- Violations, Penalties, Enforcement

Procedural Consistency entails consistency between the County Board, the Board of Adjustment and the Planning Commission. There should be outlines of powers and duties of each Board. Amendments, Use Permits, Variance Applications and procedures and consistency on decision making and that they align with State Law. Most of our Ordinance has been more stringent than what is set out within the State laws. The last item was Notice Requirements and to align them closer with the State Law, especially regarding the 60-day rule for appeals/decisions.

Review Criteria for Variances included:

1. The Variance is in harmony with the general purposes and intent of this Ordinance.
2. The Variance is consistent with the Clay County Comprehensive Plan.
3. The Applicant establishes that there is a practical difficulty in complying with the strict letter of this Ordinance, by demonstrating:
  - a. The applicant proposes to use the property in a reasonable manner not permitted by an official control;
  - b. The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
  - c. Granting the Variance will not alter the essential character of the property's locality.
4. The Variance would not allow a Use that is not allowed in the Zoning District in which the subject property is located.
5. Economic considerations alone are not the basis for a variance.
6. The Variance is the minimum Variance that is necessary to alleviate the practical difficulty.
7. The Variance does not permit a lower degree of Flood protection than the Regulatory Flood Protection Elevation for the area, or permit standards lower than those required by state law. (See also Section 8-3A-6)
8. Any Sewage Treatment System, if the subject property is located within a Shoreland District, conforms to the intended Use of the property. The Variance, as issued, must require reconstruction of a Nonconforming Sewage Treatment System.

Director Jacobson advised that Items #1-4 are from the Minnesota State Statute. This information was discussed with the Board of Adjustment at their meeting earlier this evening.

Use Permits do not have state-mandated criteria. Clay County currently uses 13 criteria for reviewing Use Permits; Director Jacobson recommends streamlining these down to 7 criteria:

1. The Conditional/Interim Use will not be injurious to the Use and enjoyment
2. The establishment of the Conditional Use will not impede the normal and orderly Development and Improvement of surrounding property for Uses predominant in the area.
3. Adequate measures have been or will be taken to provide utilities, access roads, drainage, and off-street parking and loading spaces as required by this Ordinance.
4. Adequate measures have been or will be taken to prevent or control noxious odors, fumes, dust, noise, or vibration so that none of these will constitute a nuisance; to control water pollution and soil erosion; and to control lighted signs or other lights in such manner that no disturbance to neighboring properties will result.
5. The Conditional Use will not create an excessive burden on current or anticipated public

infrastructure or services that serve or are proposed to serve the area, including but not limited to Parks, Schools, public safety services, roads, water supply, sanitary sewers, and storm sewers, unless the County and the applicant establish a Development Agreement that determines how such impacts will be resolved.

6. The Conditional Use is allowed by this Ordinance and conforms to any specific Use standards established in Chapter, Use Regulations, as may be applicable.
7. The Conditional Use is consistent with the goals and objectives of the Clay County Comprehensive and Transportation Plan and any comprehensive plan of a township or city as may be applicable.
8. The Conditional Use will not create an excessive burden on current or anticipated public infrastructure or services

Review standards would be the same for Interim Use Permits and Conditional Use Permits.

Chair Hildebrandt feels these changes are a good idea as they are more targeted and precise. Dave Steichen asked if these 7 criteria would be sufficient to substantiate a decision if a case is brought to court. Director Jacobson felt they would suffice and that many other counties only have 4 or less. Director Jacobson felt that that adding back in the first part of "impact on the health, safety, and general welfare of County residents". Ezra Baer recommended adding that and making it Criteria #1.

#### Changes for Review Criteria – Text Amendments:

B. Review Standards. In recommending approval of a Text Amendment, the Planning Commission shall consider the effect of the proposed Amendment upon the health, safety, morals, and general welfare of County residents; the effect on existing and anticipated Land Uses and especially the effect on Agricultural Uses; the degree to which the Amendment will affect nonconformities of Variance requests; and other criteria as may be relevant. The Planning Commission shall not recommend approval unless it finds the following:

1. Development authorized by the Amendment will not create an excessive burden on current or anticipated public infrastructure or services that serve or are proposed to serve the area.
2. The Amendment is consistent with the general purposes of this Ordinance.
3. The Amendment is consistent with the goals and objectives of the Clay County Comprehensive and Transportation Plan.

Director Jacobson shared that Item #3 is probably the most important consideration. Many counties are currently dealing with requests for data centers and IA centers. No universally accepted set of standards are currently available for these type of uses.

#### Review Criteria – Zoning Map Amendments

C. Review Standards. In recommending approval of a Zoning Map Amendment, the Planning Commission shall consider the effect of the proposed Amendment upon the health, safety, morals and general welfare of County residents; the effect on existing and anticipated Land Uses and especially the effect on Agricultural Uses; the degree to which the Amendment will affect nonconformities or Variance requests; and other criteria as may be relevant. The Planning Commission shall not recommend approval unless it finds the following:

1. The Development authorized by the Amendment will not create an excessive burden on any public facilities or utilities which serve or are proposed to serve the area, unless the County and the Applicant establish a Development agreement that determines how such impacts will be resolved.
2. The Amendment is consistent with the general purposes of this Ordinance and the existing or proposed Use.
3. The Amendment is consistent with the goals and objectives of the Clay County Comprehensive and Transportation Plan.
4. The proposed Use or Zoning District is compatible with surrounding Uses or Zoning Districts.

Although the Text Amendment and Zoning Map Amendments are quite similar, the Zoning Map focuses on a specific parcel or area. This is to prevent “Spot Zoning”, which is not legal within the State of Minnesota.

The process of the different Appeal options were reviewed. This item is still being discussed between Director Jacobson and Attorney Brian Melton.

Director Jacobson explained the difference between an Interim Use Permit and a Conditional Use Permit. The Conditional Use Permits are a land right. A Conditional Use Permit may be appealed by anyone: the Applicant, a neighbor, a resident.

Dave Steichen asked Attorney Melton to explain the difference between Court of Appeals and District Court. Attorney Melton explained the progression of District Court, Court of Appeals which is a 3-Judge panel, and then State Supreme Court would be the next step. The attorney that reviewed the Ordinance update recommended the Court of Appeals as she felt it was more timely and efficient. There is case law that supports appeal hearings heard by both the Court of Appeals and the District Court. Ezra Baer shared he feels that appeals made to District Court are affordable and time saving, rather than having to go to the Minneapolis-St. Paul area for hearings. The Planning Commission consensus was for making appeals to District Court.

The next steps for the Ordinance update include:

- Address Shoreland Section DNR comments
- Address Attorney comments in Chapters 6 and 8
- Final review for formatting, definitions, etc.
- Planning Commission Public Hearing on Tuesday, April 15<sup>th</sup>
- County Board Public Hearings – early/mid-May

**On motion by Ezra Baer, seconded by Dave Steichen, and unanimously carried, the Planning Commission closed the public hearing.**

## **RYAN BUCHFINK – REQUEST FOR INTERIM USE – HOME OCCUPATION PERMIT**

The applicant is seeking an after-the-fact interim use – home occupation permit for a landscaping business at 3563 70th St N, Glyndon, MN 56547 Parcel ID: 20.030.1503, in part of the NE1/4 NE1/4, Section 30, Township 140N, Range 47W, Moland Township.

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

Director Matt advised this Home Occupation Permit is an after-the-fact request for a landscaping business. The property is zoned Agricultural General (AG) and Resource Protection-Wellhead Protection (RP-WH).

The business uses 1400 square feet of a shop for storage and operating the business. There is a residence and two outbuildings on the property. The business has 9 employees. No customers visit the property. Hours of operation are Monday-Friday, 7 AM to 6 PM, April 15<sup>th</sup> to November 15<sup>th</sup>. There is a snow removal division of the business but it operates from a different location in Fargo, North Dakota.

Home Occupation Standards were reviewed. The current Standards state employees are limited to 5 non-family in addition to members residing in the dwelling and immediate family. The Planning Commission is able to allow additional employees. Current parking spaces would accommodate 38 vehicles with approximately 11,500 square feet of available area available for parking. The Applicant utilizes the outbuilding on the south end of the property to operate this business. This location provides a buffer from the residential area to the north of the property.

Within the Wellhead Protection overlay zoning district, outdoor storage accessory to commercial use is not permitted. Applicant will need to ensure that any storage accessory to the commercial use occurs inside a building or structure. No public comments have been received regarding this request or business operation. Moland Township has not provided any comments or input.

Criteria reviewed from the 2045 Comprehensive and Transportation Plan include:

General Goal #1: Maximize the potential of Clay County as a thriving center for agriculture, business, and recreation, while maintaining and enhancing its livability.

Land Use Goal #1: Establish a comprehensive growth management strategy for Clay County that promotes orderly and efficient growth of residential, commercial and industrial development while preserving the County's rural character.

Land Use Goal #5: Plan land uses and implement standards to minimize land use conflicts.

Chair Hildebrandt asked if there currently is equipment being stored outside that needs to be stored indoors. Director Jacobson advised that the greater concern in this overlay zoning district of RP-WH is any chemical and petroleum spillage due to the proximity of the water

Ezra Baer states he regularly goes past this property for many years and feels it is very well kept up.

Ryan Buchfink joined the meeting by telephone, and he states they do not do any chemicals or fertilizers. The whole purpose is vehicle storage and trailer storage. There are approximately 6 vehicles. Anything that can be stored inside is stored inside. Ezra Baer asked how long Mr. Buchfink has been running this business at this location. Mr. Buchfink stated he bought the property several years ago from his father and started the business in 2016.

**On motion by Brad Eldred, seconded by Ezra Baer, 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.**

Chair Hildebrandt confirmed that the Applicant was a residence/owner of the property.

Minimum staff recommended Conditions:

1. Home Occupation shall comply with the Clay County Development Ordinance Home Occupation Standards.
2. Permit ceases upon ownership change.
3. Employees shall be limited to members of the house and ten (10) additional non-family employees unless a plan for additional employee parking and mitigation of potential impacts are provided to the Planning Office.
4. Outdoor storage accessory to the commercial use is prohibited. All commercial storage must occur indoors.

Ashley Heng inquired if the Applicant would want more employees. Mr. Buchfink advised that the maximum he would probably ever have would be 15. He does have another shop in Fargo that he runs operations out of as well and that he has 5 employees at that site. Ms. Heng asked if there should be stated business hours included. Mr. Baer reflected that they don't really do business at that site but, rather, are coming and going at the beginning/ending of their shift. Chair Hildebrandt concurred, and Ms. Heng agreed.

**On motion by Brad Eldred, seconded by Ashley Heng, and unanimously carried, the Planning Commission *GRANTED* the Interim Use – Home Occupation Permit with the following Conditions:**

1. Home Occupation shall comply with the Clay County Development Ordinance Home Occupation Standards.
2. Permit ceases upon ownership change.
3. Employees shall be limited to members of the house and fifteen (15) additional non-family employees unless a plan for additional employee parking and mitigation of potential impacts are provided to the Planning Office.
4. Outdoor storage accessory to the commercial use is prohibited. All commercial storage must occur indoors.

## **UNFINISHED BUSINESS:**

Director Jacobson gave an update on the current pending Violations.

## **NEW BUSINESS:**

- Brent Berg is leaving the Planning Commission and Director Jacobson expressed his appreciation to Mr. Berg. Chair Hildebrandt presented Mr. Berg with a recognition plaque for his service to the Planning Commission and Clay County.
- Matt Jacobson introduced Josh Schroeder. Mr. Schroeder is from Barnesville and has expressed interest in taking Mr. Berg's place on the Planning Commission. Mr. Schroeder shared his background and pertinent information.

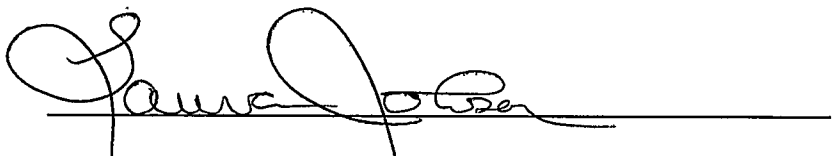
Ezra Baer asked how many meetings Mr. Schroeder has missed from his current meeting schedules of the Barnesville Planning Commission and the Barnesville School Board. He advised he has not missed many. Brent Berg gave his endorsement of Mr. Schroeder for the Planning Commission opening.

On Motion by Ashley Heng, seconded by Sebastian McDougall, and unanimously approved, Josh Schroeder will be recommended for the Planning Commission to the Board of Commissioners.

- Director Jacobson shared about an upcoming training opportunity by Association of Minnesota Counties regarding Land Use Training in Staples, MN. The focus of this training is how to write good Findings of Fact. Any Planning Commissioners interested in attending this training need to contact Director Jacobson. There will also be another training opportunity in the fall for MCIT training. Commissioner Baer advised that this training is helpful and worth the time.
- Dave Steichen advised he had the opportunity to go to St. Paul with the Moorhead-Fargo Chamber of Commerce. There were approximately 38 people in attendance. Commissioners Mongeau and Krabbenhoft from Clay County were part of this meeting. Mr. Steichen advised that this group had the chance to meet with Governor Walz and it was evident that the proposed bio-fuel plant and the County psychiatric treatment center are both projects that have the Governor's backing.

## **ADJOURNMENT:**

On motion by Brent Berg, seconded by Brad Eldred, and unanimously approved, the meeting adjourned at 8:22 PM.



Laura Johnson, Planning Commission  
Secretary