

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

Members Present: Joel Hildebrandt, Jenny Mongeau, Sebastian McDougall, Curt Stubstad, Dave Steichen, Kurt Skjerven

Members Absent: Brent Berg, Brad Eldred, Laura Johnson, Ashley Heng

Others Present: Darren Brooke (by phone), Kent Severson (by phone), Matt Jacobson, Brian Melton, Erika Franck, Justin Sorum, Rita Rueckert, Cole Hammagren, John Zavoral, Tracer Bowar, Rich Whitcomb, Trenton Evenson, Jennifer Evenson, Nick Carlin, Brett Hanson, Ryan Holte, Chris Pederson, Andrew St. John, Marsha Jorgenson, Jeff Brooks, Josh Carlson, Bill Byers, Kathy Byers, Brent Syston, Tim Dahlsad, Patricia Dahlsad, Harmen Tande

ROLL CALL:

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

APPROVAL OF AGENDA:

On motion by Kurt Skjerven, seconded by Sebastian McDougall, and unanimously carried, the Agenda was approved.

APPROVAL OF MINUTES OF JANUARY 28TH, 2025:

On Motion by Kurt Skjerven, seconded by Sebastian McDougall, and unanimously carried the January 28th, 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 – REQUEST FOR PUBLIC INPUT

Clay County is in the process of updating the Land Development and Subdivision Ordinance. The Planning Commission will take public comment at their regularly scheduled meetings. The draft Ordinance is available for review online at <https://claycountymn.gov/1805/Land-Development-Code-Update>. Comments and questions can also be submitted by calling the Planning Office or by email at planning@claycountymn.gov.

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

Director Matt Jacobson advised that he wished to give the public an additional opportunity for input on the full draft of the Land Development Ordinance update, which is now available for review on the website. The Planning Commission will be hearing the full draft at the March 18, 2025 meeting to determine if it is ready to be sent to the Board of Commissioners. The Board of Commissioners had a work group meeting on the Ordinance and good feedback and comments were received from that. The Board of Commissioners will likely have 2 open Public Input meetings, probably in April, to solicit additional comments and feedback.

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

RED RIVER VALLEY CO-OP POWER – PETITION FOR REZONING

The applicant is petitioning to rezone Parcel ID: 23.034.0400, owned by Oberg LLC, in part of the N1/2 of the NE1/4 of Section 34, Township 140N, Range 48W, Oakport Township Agricultural General; Urban Expansion District Tier 2 to Highway Commercial.

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

Director Matt Jacobson advised that the Applicant is asking to rezone a portion of parcel 23.034.0400 from Agricultural General and Urban Expansion District Tier 2 to Highway Commercial. This is just north of the County Resource Recovery Center and the Department of Motor Vehicle at State Aid Highway 18 and 34th Street North near Moorhead. The Urban Expansion District is within the City of Dilworth future growth area. There are no structures on the property and its use is Agricultural General. It is approximately 20 acres and the Crop Equivalency Rating (CER) is 72. There are no wetlands according to the National Wetland Inventory located on the property.

There are two entities involved. The first is RESCO, which is a midwestern electric supply cooperative that sells electrical products to utilities. They are looking to build a 40,000 to 60,000 square foot distribution warehouse on Lot 1 Block (approximately 15 acres) of the plat. It will be a precast building with an estimated building cost of \$12 to \$15 Million to be constructed in 2026. The office space will accommodate 30 employees.

The other entity involved in this subdivision is Red River Valley Co-Op Power, a local electric distribution cooperative that provides power to portions of Clay County for more than eight decades. They are looking to build a 10-12,000 square foot precast office building on Lot 2 Block 1 (approximately 5-acre lot) on this projected plat. The building will be for their office and shop, to house their bucket trucks and electrical maintenance equipment. The office space will accommodate 5 to 7 employees and construction is proposed for the time period of 2026-2028.

Director Jacobson addressed all the Highway Commercial Standards.

Because this property is located within the Dilworth Extra Territorial area, they would have the subdivision jurisdiction. On February 5th of 2025 the Dilworth Planning Commission recommended approval of the preliminary plat and on February 10, 2025 the Dilworth City Council approved the preliminary plat with the following conditions:

1. A twenty (20) foot utility easement is established around the perimeters of each lot for future extension of public utilities.
2. The roadway accesses are designed and placed to allow for adequate distances for future urban street intersections south and east of the plat, in conformance with City of Moorhead and Clay County access regulations.

3. That a development agreement is entered into between the applicant and the City of Dilworth for the future extension of city utilities to the property.
4. That in accordance with Dilworth City Code, Subdivision Regulations, 154.04 (B) (3), Subdivision Jurisdiction, that the Clay County Planning Commission review the proposed plat and provide comments prior to final consideration of plat approval.

The following Goals and Objectives were reviewed from the 2045 Comprehensive and Transportation Plan:

1. Encourage commercial and industrial development that is in harmony with the agricultural and rural character of Clay County.
 - a. Promote value-added agricultural commercial and industrial development in Agricultural Service Center areas and along transportation corridors and hubs.
 - c. Avoid or mitigate against commercial and industrial development that increases the potential for land use conflicts with rural residential or agricultural uses.

Traffic count information available from 2021 for CSAH 18 had average daily traffic of about 2600 cars, and 34th Street was at about 1600 cars. It is likely that the numbers are now possibly higher.

Joel Hildebrandt inquired what would be on the remaining 70% of the parcel. Director Jacobson advised it would be landscaping, parking and stormwater management features, otherwise it would just be open space. Mr. Hildebrandt was trying to determine the total impervious surface area of the projects.

Rich Whitcomb, CEO of Red River Valley Electric Co-Op, and Chris Peterson, Regional Vice President of RESCO, spoke. They advise they have a long-standing partnership and service in the area, and they are looking at this property to provide a high-level of service to their Clay County customers and also for expansion of their services within the County. Jenny Mongeau stated her feelings were that it makes a lot of sense to support a project like this that Dilworth is supporting.

Dave Steichen confirmed Dilworth's approval of the plans as presented.

Kathy Byers of 4062 28th Ave N, Moorhead, stated she moved to a rural area to be in the rural area and does not want development near her residence. She is wondering why they can't expand at the location on Highway 75 where they currently reside.

On motion by Sebastian McDougall, seconded by Kurt Skjerven, 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.

Minimum staff recommendations: Work through the Findings of Fact and Order and approval of the rezoning of the portion of the subject property described in the Cooperative Energy Subdivision Plat from Agricultural General, Urban Expansion District Tier 2 to Highway Commercial to the Clay County Board of Commissioners. Because the City of Dilworth is in favor of the rezoning and development, the recommendation is to approve the rezoning request.

Director Jacobson confirmed that the recommendation to be made would only be for the 20 acres of the plat and not for the entire parcel.

Dave Steichen asked if the City of Dilworth recommendations and conditions should be added. Director Jacobson advised they could be included and there could be a second motion to send those comments to the City of Dilworth.

On motion by Dave Steichen, seconded by Sebastian McDougal, and unanimously carried, the Planning Commission approved to recommend Rezoning of the subject section of the Plat to Highway Commercial to the Clay County Board of Commissioners. Curt Stubstad recused himself from this vote.

TRENTON AND JENNIFER EVENSON – REQUEST FOR INTERIM USE – HOME OCCUPATION PERMIT

The applicant is seeking an Interim Use – Home Occupation Permit for a bed and breakfast at 17614 60th St N, Georgetown, MN 56546 Parcel ID: 30.020.0201, in part of the SW1/4 NW1/4, Section 20, Township 142N, Range 47W, Viding Township.

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

Director Matt Jacobson advised the request is for a bed and breakfast Interim Use Home Occupation Permit. This type of permit is allowed in this zoning district, which is Agricultural General. There are residences, 6 ag buildings and 7 grain bins on the property. The request is to operate a Bed and Breakfast out of renovated ag buildings currently on the property. Total capacity would be for 22 guests within the 4 structures. The Applicants did perform a market analysis for a 3-day stay.

All public lodging establishments are required to be licensed by the regulatory authority before operating. Any remodeling of existing establishments require a plan review by the Health Authority prior to licensing. This review allows for them to check that the structure has appropriate egress/ingress. There may be a need for additional septic for the added bedrooms in the proposed-use structures. They would also have to have an adequate supply of water and that would need to be tested for contaminants. The Environmental Health Department would be involved with the septic and water requirements.

Jenny Mongeau asked if people that put their properties on VRBO would be subject to these same criteria. Mr. Jacobson advised that yes, they would be held to the same standards.

Director Jacobson noted that the Planning & Zoning has received complaints from other neighbors in this vicinity regarding odors from nearby agricultural use at the Felton beet piler. The state is working with the piler owners regarding this situation. The Township has not provided any comment.

The following goals and objectives were reviewed from the 2045 Comprehensive Plan:

General Goal #1: Maximize the potential of clay Ciounty 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.

Trent and Jennifer Evenson advised they live on the property. A few years ago their daughter got married and started looking around and they realized there were no places of accommodation without driving to the Fargo

area. Ms. Evenson stated that they have a large family and also want to have a place for their family to get together. They would also like to do retreats on the property and build up the area community.

Dave Steichen asked about the odors in the area and if they would be an issue. Mr. Evenson advised they are northwest of the beet piler but they aren't in the direction that the wind carries the odors very often. Ms. Evenson believes it is the beet piler's lagoon that is the source of the odor.

Tim Dahlsad advised he is a neighbor to the property in question. He advised that in the spring and fall there are 24-hour farming operations in that area and he is concerned about how that will affect them, with the associated noise, activity, lights, etc. He is concerned about everyone's safety in that area. Director Jacobson advised that Minnesota has the Right To Farm law which protects the farmers from receiving nuisance complaints and the law is also outlined in the County Ordinance and Comprehensive Plan.

On motion by Curt Stubstad, seconded by Kurt Skjerven, 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: Operate within provisions of the Clay County Land Development Ordinance.
- 2: This permit will terminate if the Applicants close the business for a period of 12 or more consecutive months or when the property is transferred to a new owner.
- 3: Hours of operation are 24/7, 365 days a year.
- 4: Short term stays shall be permitted meaning a period not to exceed fourteen (14) consecutive days,
- 5: Septic must conform to Clay County Environment Health requirements.
- 6: The facility shall receive appropriate licensure from the Clay County Environment Health Division regarding lodging and food licenses.
- 7: One non-illuminated sign only of a maximum size of thirty-two (32) square feet is allowed to advertise the home occupation on site.
- 8: One parking space shall be provided on-site per rental sleeping unit.
- 9: Additional conditions as the Planning Commission sees fit.

Dave Steichen asked if a retreat center would have different standards than a lodging facility. Director Jacobson advised that there are different standards that would need to be applied for a retreat center such as a wedding venue, etc.

Director Jacobson advised that since this is an Interim Use Permit, the Applicants would need to agree to the Conditions as they are set out. The Applicants advised they are in agreement of the Conditions as listed.

On motion by Curt Stubstad, seconded by Kurt Skjerven, and unanimously carried, the Planning Commission *GRANTED* the request with the following conditions: (1-8)

1. Operate within provisions of the Clay County Land Development Ordinance.
2. This permit will terminate if the Applicants close the business for a period of 12 or more consecutive months, or when the property is transferred to a new owner.
3. Hours of operation are 24/7, 365 days a year.
4. Short-term stays shall be permitted, meaning a period not to exceed fourteen (14) consecutive days.
5. Septic must conform to Clay County Environmental Health requirements.
6. The facility shall receive appropriate licensure from the Clay County Environmental Health

Division regarding lodging and food licenses.

- 7. One non-illuminated sign only of a maximum size of thirty-two (32) square feet is allowed to advertise the home occupation on site.**
- 8. One parking space shall be provided on-site for each rental sleeping unit.**

RJ ZAVORAL & SONS – INTERIM USE RENEWAL REQUEST FOR TEMPORARY ASPHALT PLANT

The applicant is seeking approval to renew an interim use permit for a temporary asphalt hot mix plant. Said plant would be at an existing gravel mining operation on parcel 12.021.1700 in the S1/2, NE1/4, Section 21, Township 142N, Range 45W, Hagen Township.

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

Director Matt Jacobson advised the request is for an Interim Use Permit for a temporary placement of an asphalt batch plant. This is an 80-acre parcel in Hagen Township zoned Agricultural General (AG) and Resource Protection-Aggregate (RP-Agg). This request is an allowed Interim Use within that zoning. The site is currently a gravel mine.

There is an extensive permit history with the County dating back to 2010 and Director Jacobson went through each of the issued permits through the years. Most recently, in 2019, RJ Zavoral was granted a permit for a batch plant and for Interim Use gravel mining Permit was granted for Alexandria Gravel Products. There was also an IUP issued in 2020 for a batch plant, and in 2021 an IUP was granted for gravel mining. The previous asphalt plants that were permitted were all temporary and there was only one batch plant at a time.

There have been several complaints from area residents since 2019 related to the operation of the asphalt batch plant. Odor and dust are the primary complaints. Odor issues could potentially be mitigated with additives, misters or other odor mitigation solutions. Hauling complaints have been reduced over time, though there have been some complaints about the impact of dust control on vehicles. Dust emanating from the pit has been an issue, especially on high-wind days. Dust control measures should be used in the pit as well as on haul roads. Some operations that generate excessive dust should be suspended on high wind days. There have also been issues between plant employees' dogs and the neighboring properties. The property across the street is owned by Edward Mars and he does have a permit to house up to 5 campers for these workers.

Hagen Township heard an update from the Applicant at their February 10th meeting. They are currently updating their Ordinance and the Applicant's request will be addressed at the March 2025 Township meeting.

2045 Comprehensive & Transportation Plan Goals and Objectives reviewed include:

Land Use – Commercial and Industrial

1. Encourage commercial and industrial development that is in harmony with the agricultural and rural character of Clay County.
- b. Avoid or mitigate against commercial and industrial development in or 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.

Land Use – Commercial and Industrial

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

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

Director Jacobson advised that since this area is near environmentally sensitive areas, the primary dust control used should be water.

Joel Hildebrandt asked if it was still anticipated for 6 or 8 weeks of operation during construction seasons; Director Jacobson directed him to get this information from the Applicant.

Dave Steichen asked if the Township permit or the County permit should come first, since the Township will not be hearing the matter until March. Director Jacobson advised that since the permits act independently, there is not an order which would need to be followed. Director Jacobson displayed the previous permit and the conditions associated to that issued Permit. Hours of operation allowed on that Permit were 6:00 AM to 8:00 PM Monday through Saturday and these were the same hours of operation on their last IUP issued in 2020.

Joel Hildebrandt asked if there had been any permit violations for the State regulations, and Director Jacobson advised that he was not aware of any State violations.

Jeff Brooks, Regional Manager of RJ Zavoral & Sons, stated they are the 3rd entity to hold permits on the property. He feels that they have addressed the issues and advised that Highway Department County Maintenance Supervisor Kim Carpenter complimented them on how well they are maintaining the roads. They have looked into a perfume system and the cost to reduce the odors and toxicity of the pit operations. He states they wish to accommodate the surrounding neighbors as best they can. He stated the length of time for the batch plant would be 3 to 5 weeks this year and does not anticipate that it would be there any longer than that. Joel Hildebrandt inquired about loose dogs complaints. He stated that one of the employees had a dog that was running around and had killed some of the neighbors chickens. He stated that the situation has been addressed and handled.

Neighbor Josh Carlson advised he has a now 2-year-old son that was a premature baby that suffers from lung issues and he is here to advocate for the health of his son. In the last 12 months he has had a lawyer look at revisions. There is a neighbor who has an issue with financial impacts for a local store. He is aware that Zavoral was looking at a different pit but that wasn't allowed due to impact on a special species of butterfly. He asked about the length of time for the Permit; Chair Hildebrandt advised that the term would be for 5 years.

On motion by Sebastian McDougall, seconded by Kurt Skjerven, 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. Operate within provisions of the Clay County Land Development Ordinance.
2. Operator shall control dust and provide necessary maintenance on any/all gravel haul roads and fugitive dust must be controlled on the property. Water or chloride must be applied during plant operation to control dust the full length of the haul road.
3. Operator shall provide proof of NPDES/SDS, Storm Water management, and Air Quality permits, as required, to the Planning Office.

4. Operator shall provide parking, screening, lighting, drainage, and portable sewer facilities consistent with County regulations.
5. Batch plant operations: May 15th through October 31st; hours shall be limited to 6:00 AM to 8:00 PM, Monday through Saturday. If the operator needs to operate 24/7 or beyond stated days/hours, They shall first notify the Planning Office with a reason and the length of time requested so that the extended hours can be reviewed and approved. Township approval is also required.
6. Permit shall expire February 18, 2030.
7. Work with the Clay County Highway Department for placement of appropriate traffic warning signs on applicable roadways.
8. With the exception of one employee for security and site management purposes, employees are otherwise prohibited from camping or staying overnight on-site.

Sebastian McDougall inquired about modifying the hours listed in condition 5 to 7:00 AM to 7:00 PM.

Director Jacobson asked if the odor abatement should be added as a separate condition. Mr. Hildebrandt stated that if they are not in violation of air standards, how can additional conditions be imposed on them, and was curious about the differences in “perfuming” the air vs. actually cleaning the air. Mr. Steichen expressed sympathy for Mr. Carlson’s child’s health issues and feels that this should be an option to be explored. Condition 9 was added relative to air odor mitigation measures which must be employed while the batch plant is in operation. Joel Hildebrandt asked the Applicant if the conditions were agreeable and he advised that they were.

On motion by Curt Stubstad, seconded by Kurt Skjerven, and unanimously carried, the Planning Commission *GRANTED* the request with the following conditions:

1. Operate within provisions of the Clay County Land Development Ordinance.
2. Operator shall control dust and provide necessary maintenance on any/all gravel haul roads and fugitive dust must be controlled on the property. Water or chloride must be applied during plant operation to control dust the full length of the haul road.
3. Operator shall provide proof of NPDES/SDS, Storm Water Management, and Air Quality Permits, as required, to the Planning Office.
4. Operator shall provide parking, screening, lighting, drainage, and portable sewer facilities consistent with County regulations.
5. Batch plant operations: May 15th through October 31st; hours shall be limited to 7:00 AM to 7:00 PM, Monday through Saturday. If the operator needs to operate 24/7 or beyond stated days/hours, they shall first notify the Planning Office with a reason and the length of time requested so that the extended hours can be reviewed and approved. Township approval is also required.
6. Permit shall expire February 18, 2030.
7. Work with the Clay County Highway Department for placement of appropriate traffic warning signs on applicable roadways.
8. With the exception of one employee for security and site management purposes, employees are otherwise prohibited from camping or staying overnight on-site.
9. Odor mitigation measures must be employed while batch plant is in operation.

UNFINISHED BUSINESS:

- End of 1st Term – February 2025 for Brad Eldred: Director Jacobson asked for a recommendation for an appointment to a second 3-year term for Brad Eldred.
On motion by Jenny Mongeau, seconded by Sebastian McDougall, and unanimously carried, the

Planning Commission recommended reappointment of Brad Eldred for a second 3-year term.
Director Jacobson will be bringing this to the Board of Commissioners for approval.

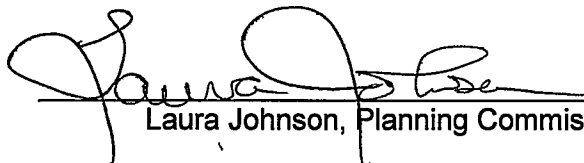
- **Use Permit Violations Update:** Director Jacobson advised there are currently 2 home-based businesses that need permits. One is an equestrian horse boarding facility. These 2 issues have been referred to the County Attorney's office for enforcement. Curt Stubstad asked if it was unusual to have to send these to the attorney for follow up. Director Jacobson advised that it has only happened once since he has been here.

NEW BUSINESS:

- **Election of Officers:** The positions of Chair, Vice Chair and Secretary need to be elected. By process of secret ballot, the following were elected:
Chair: Joel Hildebrandt
Vice Chair: Dave Steichen
Secretary: Laura Johnson
- There is an opening on the Planning Commission for a rural member. One application has been received at this time.

ADJOURNMENT:

On motion by Kurt Skjerven, seconded by Curt Stubstad, and unanimously approved, the meeting adjourned at 8:33 PM.



Laura Johnson, Planning Commission Secretary