

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

Members Present: Kurt Skjerven, Jenny Mongeau, Laura Johnson, Joel Hildebrandt, Dave Steichen, Josh Schroeder, Brad Eldred, Sebastian McDougall

Members Absent: Ashley Heng

Others Present: Matt Jacobson, Brian Melton, Rita Rueckert, Kent Severson (by Teams Meeting), Darren Brooke (by Teams Meeting), Lisa Burns (by Teams Meeting), Rob Roberts, Corey Simonson, Brian Leiseth, Daniel (Joe) Moore, Paul Bannerman, Dale Schlotfeldt, Kevin Schlotfeldt, Craig Nelson, Laura Knoll, Duane Parke, Rene Parke, Tm Nephew, Jane Nephew, Deb Ekre, Cameron Knoll, Steve Opatril, Ron Knoll, Ben Asplin, David Asplin, Evan Knoll, Victoria Luck, Jerry Bents, Jon Lowry, Jim Sheridan

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 Sebastian McDougall, seconded by Laura Johnson, and unanimously carried, the Agenda was approved.

APPROVAL OF MINUTES OF OCTOBER 21ST, 2025:

On Motion by Kurt Skjerven, seconded by Brad Eldred, and unanimously carried, the October 21st, 2025 Minutes were approved.

CITIZENS TO BE HEARD:

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

PUBLIC HEARINGS:

WILD RICE WATERSHED DISTRICT – REQUEST FOR CONDITIONAL USE PERMIT

The applicant is seeking a conditional use permit to construct rock arch rapids on the Wild Rice River, South Branch on Parcel ID: 12.016.2800, in the S1/2 of the NW1/4 and NE1/4 of the NW1/4 of Section 16, Township 142N, Range 45W, Hagen Township.

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

Matt Jacobson, Planning Director, advised the Condition Use Permit request is to establish rock arch rapids on the South Branch of the Wild Rice River between Felton and Ulen. The property use is Residential, agricultural, and rural vacant land. Zoning is Agricultural General (AG), with overlay zoning of Resource

Protection – Aggregate (RP-Agg), Shoreland: Special Protection (SH) and Floodplain Fringe (FF). There is a farmstead with two outbuildings. The intent of the structure is to stabilize eroding on river, re-establish the natural channel grade, improve fish passage, and restore floodplain connectivity. No impervious surface would be created. The area to be disturbed is roughly 1.1 acres during construction.

The details of the project are:

- Excavate and place approximately 5,000 cubic yards (cy) of material (riprap, boulders, backfill)
- Construct a series of rock weirs using 36–72-inch diameter boulders across roughly 330 linear feet of river channel
- Include erosion-control measures (flotation silt curtain, seeding, SWPPP implementation) and site access from 190th Avenue North
- Work to occur entirely within the existing river corridor. No impervious surface will be created.
- Roughly 1.1 acres of area will be disturbed during construction
- Work is to be timed to avoid fish-spawning periods (no work within the channel between March 15th and June 15th)

The Conditional Use Permit was triggered due to the Land Development Ordinance 8-3-8.2 pertaining to Shoreland:

Conditional Uses: The following uses and activities may be permitted as Conditional Uses, subject to the standards in 8-3-8(C).

- b. Fill: The cumulative placement of more than 1,000 cubic yards of fill or other materials, when the fill is not being used to elevate a structure or for a transportation project.

There have been no comments received from the DNR, the public nor the Township regarding this request.

Goals from the Comprehensive Plan include:

Floodplains:

1. Foster a community resilient to the impacts of flooding through targeted mitigation planning and implementation for the benefit of Clay County residents, agriculture, and industry.
 - c. Coordinate with FEMA and the Minnesota Department of Natural Resources, watershed districts and other entities on flood mitigation efforts.

Shoreland and Stormwater:

1. Protect and enhance the health and vitality of Clay County surface waters including lakes, rivers and streams for the benefit and enjoyment of Clay County residents and visitors.
 - b. Maintain and enhance the riparian areas of public waters, especially within shore impact zones.
 - c. Recognize surface water goals and implementation actions in the Buffalo-River River and Wild Rice Watershed Districts Comprehensive Watershed Management Plans.

Based on the engineering work of Houston Engineering, it is not anticipated this will have any impact on upstream or downstream flooding.

Jerry Bents of Houston Engineering welcomed any questions. He added that the Watershed district does have a master plan along the South Branch to diminish the erosion within that area and keep the sediment from moving downstream to fill the channels there. Mr. Bents gave a history on the river erosion damage, noting that the flood of 2002 impacted this area significantly.

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

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

Staff recommends the following minimum Conditions:

1. No construction may begin until all required permits are obtained (DNR Public Waters Work Permit, MPCA NPDES coverage, USWACE Section 404 permit).
2. No in-stream work between March 15 and June 15th to protect fish spawning.
3. All BMPs in the approved SWPPP must be implemented and maintained until final stabilization.
4. Project shall not cause a cumulative increase in BFE exceeding 0.5 feet; post-construction as-built verification may be required.
5. All disturbed banks and access routes shall be seeded and mulched immediately after construction.
6. The Wild Rice Watershed District shall be responsible for long-term maintenance and monitoring of the structure.
7. Temporary access routes shall be restored to pre-project condition upon completion.

Mr. Bents advised that they are in agreement with the proposed conditions.

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

1. No construction may begin until all required permits are obtained (DNR Public Waters Work Permit, MPCA NPDES coverage, USWACE Section 404 permit).
2. No in-stream work between March 15th and June 15th to protect fish spawning.
3. All BMPs in the approved SWPPP must be implemented and maintained until final stabilization.
4. Project shall not cause a cumulative increase in BFE exceeding 0.5 feet; post-construction as built verification may be required.
5. All disturbed banks and access routes shall be seeded and mulched immediately after construction.
6. The Wild Rice Watershed District shall be responsible for long-term maintenance and monitoring of the structure.
7. Temporary access routes shall be restored to pre-project condition upon completion.

COREY SIMONSON – CONCRETE HOLDINGS, LLC – REQUEST FOR INTERM USE PERMIT

The applicant is seeking an Interim Use Permit for a concrete plant on the proposed Lot 1, Block 1 of the Opatril Subdivision, currently Parcel ID: 19.017.4200, part of the NW1/4 of the SE1/4 and the SW1/4 of the SE1/4, Section 17, Township 138N, Range 48W, Kurtz Township.

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

Matt Jacobson, Planning Director, advised that the parcel is 66.47 acres located between 80th Avenue and 90th Avenues, south of Moorhead on US Highway 75. The current use is agricultural. Zoning is Agricultural General (AG) with an overlay zoning of Flood Fringe (FF). The request is for a concrete plant to be located on a portion of this property. This property is prime farmland (CER 67-73) and there are no identified wetlands on the property.

The closest residence is approximately one-quarter mile to the north, another approximately .44 miles to the west and a third residence .45 miles to the southeast. One-half mile to the north, there currently is a concrete ready-mix plant that was permitted in 2011 and that permit was renewed in 2021.

A map was reviewed showing the proposed building and the surrounding area.

In September 2025, the applicant requested a rezoning to Highway Commercial and Preliminary plat approval was given for Opatril Subdivision for future development. Kurtz Township denied both the rezoning and the plat. The owner later resubmitted the same plat as an agricultural subdivision, which Kurtz Township did approve, consistent with Clay County's requirement that townships grant preliminary plat approval prior to County action.

The Planning Commission approved the preliminary plat. The Board of Commissioners approved the final plat of the 1 block – 2 lot subdivision by a 4-1 vote at their regular weekly meeting this morning. Director Jacobson emphasized that because the parcel will be sold to Concrete Holdings LLC only if the IUP is approved, the IUP must become effective only after staff verifies the ownership transfer, as required under Clay County Land Development Code § 8-11-8 for Interim Use Permits.

The parcel would be 10 acres (subdivided from the larger agricultural tract), the building would be an 8,000 square foot structure enclosing primary batching equipment. There would be a silo 80 feet tall adjacent to the main building. Impervious surface would be 286,627 square feet (which equals 65.8% of the site). A stormwater pond would be 35,900 square feet, wet basin designed for quality and quantity control. Access would be from US Highway 75 via improved commercial approach which is currently pending MnDOT permitting.

The nearest residence is approximately .25 miles north (1,300 feet). Screening would include vegetative buffers consisting of Colorado and Blue Hills spruce trees. Enclosing the operation would mitigate the dust and noise, as well as using a baghouse, residential back-up alarms and dust control. Lighting would be downcast and no lighting of the silo should be required by FAA unless there is a hazard determined. Director Jacobson suggested that due to the height and with a couple airports within the vicinity, it would be a good idea to request aviation hazard lighting.

They are requesting a 20-year longevity of this IUP. Hours of operation would be 5:00 AM to 7:00 PM, Monday through Friday; 6:00 AM to 3:00 PM Saturday, with seasonal reduction December through April. Truck traffic is estimated at 50 trucks per day during peak operations and 15 trucks per day during off season.

Water would be supplied via a private well which is anticipated to be dug to about 225 feet with an estimated use of 750,000 gallons per year. The MPCA requirements for water appropriations permits are 1,000,000 gallons per year or 10,000 gallons per day. The septic would be onsite. They would need to get Stormwater Permits from MPCA, MnDOT, and the Buffalo-Red River Watershed District. An MPCA Air Emissions Permit would be required from the Pollution Control Agency.

There was a comment made by MnDOT which was received this date:

- A right turn lane will be required for this project. Ultimately it is up to the traffic engineer's discretion but they are saying that a turn lane will be required.

Comments received from Kurtz Township include:

- They are formally opposed to the use, citing incompatibility with the Agricultural district and concern over future commercial or industrial expansion along Highway 75.

Kurtz Township is not in favor of this development. Many neighbor comments opposing this request have been received citing concerns that include:

- Traffic safety risks associated with increased truck movements on a 60-mph two-lane highway.
- The potential for the use to generate noise, dust, traffic, lighting nuisances.

- Corridor planning conflicts, noting that Highway 75 functions as 8th Street in Moorhead and is experiencing residential and commercial growth trends inconsistent with heavy industrial development.
- Drainage and runoff concerns due to the site's proximity to a ditch flowing toward the Red River.

There was a petition created on Change.org opposing this use, and a check of that petition this afternoon had 137 signatures. There is no way for staff to verify the names and addresses of the petitioners.

The Clay County Land Development Ordinance 8-8-4D for Asphalt Batch and Concrete Ready-Mix Plants states:

1. Application Submittals: A site plan shall be submitted with the Interim Use Permit application meeting the requirements of 8-8-4(A)(4).
2. Location: Asphalt batch plants, Ready-Mix cement plants, and associated processing facilities and structures should be located to the greatest extent possible, downwind from any inhabited residential structure located within one-quarter (1/4) mile of the proposed site.
3. Setbacks: Asphalt batch plant, Ready-Mix cement plants, and associated processing facilities and structures shall set back the following minimum distances:
 - 100 feet from lot lines
 - 200 feet from the right-of-way line of the nearest road or highway
 - 1,000 feet from dwellings, schools, churches, public uses, or commercial uses.
4. Financial Surety: As a condition of granting the permit, the County shall require the owner or operator to post a bond, cash deposit, letter of credit, or other financial surety in such form and sum as the County shall determine, with sufficient surety running to the County, conditioned to pay the County the cost and expense of repairing, from time to time, any highways, streets, township roads, or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel in removing materials from any pit, excavation or impounded waters, the amount of such cost and expense to be determined by the County Engineer; and conditioned further to comply with all the requirements of this Ordinance and the particular permit, and to pay any expense the County or a township may incur by reason of doing anything required to be done by any application to whom a permit is issued, including the cost of required reclamation.

All proposed setback standards appear to be able to be met.

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

Land Use – Agriculture:

1. Recognize and Protect the agricultural character of Clay County.
 - b. Protect prime agricultural soils from commercial, industrial and residential development.

Land Use – 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.
 - c. Avoid or mitigate against commercial and industrial development that increases the potential for land use conflicts with rural residential or agricultural uses.
2. Promote the incorporated communities of Clay County as prime locations for commercial and Industrial development.
 - a. Encourage commercial and industrial development to locate within the incorporated communities of Clay County.

Director Jacobson pointed out there could be impacts to township roads, especially 90th Avenue South, as that

can be a gravel hauling route from CSAH 10. He also advised that the Applicant had tried to secure a location within the municipalities of Moorhead and Sabin but was not successful in finding a location.

Jon Lowry of Lowry Engineering spoke on behalf of Corey Simonson (Applicant) and Steve Opatriil (landowner). Mr. Lowry stated they want to work with Clay County and the neighboring residents. He re-emphasized that it has been difficult to locate properties for this project and there have been several other locations reviewed that do not meet standards for this use. There are industrial/commercial lots immediately to the north of this parcel, as well as a batch plant that has been operating for over 15 years. The property can be modified to make sure that this property isn't as much of a nuisance as the other nearby use. Screening, lighting, noise/dust reduction have all been considered for mitigation. Mr. Lowry feels that this is a use that is necessary and needed. He questioned if the standards put in place for a concrete plant are reasonable.

Laura Knoll stated she is from a family of 5-generation farmers in the area, and she started the on-line petition. She presented a petition with hand-signatures to Director Jacobson that were also collected apart from the online petition from residents that did not use the internet. She pointed out that there is already one concrete batch plant in that area and feels that this prime farmland should be protected. She mentioned the noise, the pollution, the traffic and other items that make this request incompatible with the present existing area. She would envision the growth along Highway 75 to look more like the corridor of Highway 81 on the North Dakota side, with housing, churches, green spaces, etc., instead of being locked in with commercial/industrial use.

Dale Schlofeldt advised he and his brother spend a lot of time outside and there is already a lot of noise of beeping, tail gates slamming shut, etc. The traffic and noise are concerning, as well as the water issue. He advised 2 of his neighbors have had to re-drill their wells because they ran out of water so he is concerned about that affecting his residence as well.

Paul Bannerman advised that his family owns the farm directly to the north of the proposed plant, approximately one-quarter mile away. Noise pollution is his biggest concern, as well as extended lighting in the surrounding neighborhood. He also mentioned concerns of increased traffic, dust, environmental impacts (specifically the effect on neighborhood wells), loss of prime farmland, and decreased property values.

Cameron Knoll comes from a manufacturing background and attests there will be a lot of runoff, dust and fumes from the proposed project. He also shares the same concerns as previously outlined by others.

Dan Moore lives at 8046 14th Street South in Moorhead. He emphasized that the proposed truck traffic is in addition to the current Strata truck traffic in that area.

Evan Knoll advised he is currently studying biochemistry and for the past 8 years he has participated in wastewater treatment on soil contamination. He feels that the best way to prevent contamination is to prohibit the contaminating activity. He shares the sentiments outlined by Kurtz Township. He feels an environmental study should be done.

Brian Leiseth is a long-term Kurtz Township officer. He pointed out that the other plant does not have the screening they were supposed to have and feels that site is an eye sore. He shares concerns about the increase in traffic.

Rob Roberts of 7776 Highway 75 South, Moorhead, stated that he hears the speakers, the noise, the traffic, etc. of the current ready-mix plant. Mr. Roberts stated that he had to recently drill a new well and is now wondering if he went deep enough for the impacts of this proposed project. He feels that there should be a study done for the impact on the area wells. Director Jacobson advised that the DNR does well interference studies and this may be something to be considered.

Applicant Corey Simonson advised they looked at several sites that were not compatible with the Clay County zoning standards. He acknowledges Moorhead is going to expand and that there is farmland involved. He states that the average water usage is equivalent to 10 to 12 houses usage per year. Mr. Simonson feels there haven't been any noise complaints with the existing nearby plant.

Jenny Mongeau questioned how he would hear about complaints regarding the other plant. Mr. Simonson stated that in talking with neighbors and the Township, he is not aware of any complaints. Ms. Mongeau requested Director Jacobson give more information on the well interference study. Director Jacobson advised that it is done via a request to the Department of Natural Resources and is typically landowner driven. Due to the proposed projections for yearly water usage, they are under the required gallons for a mandatory study to be done, otherwise it would be required if they were over the 1,000,000 gallons per year.

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

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

Staff recommends the following minimum Conditions:

1. The IUP shall become effective only after Clay County Planning & Zoning verifies that the Opatril Subdivision plat has been recorded and property ownership has transferred from Steve and Theresa Opatril to Concrete Holdings LLC.
2. Abide by the provisions of the Clay County Land Development and Subdivision Ordinance.
3. All necessary Township, State and Watershed permits (MnDOT, MPCA, BRRWD) shall be obtained prior to operation.
4. Vegetative screening shall be planted and maintained around the perimeter as shown on the site plan.
5. All washout and processed water shall be contained and recycled on-site.
6. Dust Management Plan: Applicant shall submit a written dust-control plan (including sweeping, watering, and baghouse maintenance) prior to operation.
7. All exterior lighting shall be full cut off and directed downward; no glare beyond property lines.
8. All operations shall comply with MPCA daytime noise standards (Minn. R. 7030).
9. Hours of operation are limited to 6:00 AM-7:00 PM Monday through Friday, and 6:00 AM to 3:00 PM Saturday.
10. No crushing or processing of raw aggregate or recycled is permitted onsite.
11. Truck access is limited to paved roadways; no access via township gravel roads.
12. Annual review of complaints regarding dust, noise or lighting; additional mitigation may be required if verified.
13. The Interim Use Permit shall expire on December 31st, 2035.

There was extended discussion regarding the concerns surrounding the water usage and the resulting impacts of diminished water accessibility on the area residents.

Upon request, Director Jacobson walked through the process of dealing with violations of the conditions or any resulting nuisance complaints. Director Jacobson also explained that the setbacks, as set out, are not reciprocal. Director Jacobson also advised that all the batch plants within Clay County have an IUP with the exception of the one at Spring Prairie Hutterian and Brethren which is permitted with a CUP.

Director Jacobson gave specifications on the Findings of Fact and Order, advising that if there was a concern that could not be addressed through conditions, that item must be included in the Findings. Commissioner Mongeau pointed out that she has concerns about the ground water issues and the impact that could have on the area residents. Director Jacobson advised that he could work with the DNR if the groundwater is a concern. Commissioner Mongeau indicated that there are residents just a bit farther south near Rustad who have had to go 1/4 mile into their fields to find water and they are near the river. Director Jacobson advised well data and pump tests could be done, including further studies on the area groundwater.

Chair Hildebrandt asked if anyone wished to revise any of the 13 set out conditions and there was no response.

Applicant was asked if they were able to accommodate the conditions as set out. Mr. Simonson acknowledged that they could work within those conditions. Mr. Simonson asked about extending the permit as the money they would be spending to put up the facility would not be compatible with only a 10-year permit.

There was discussion regarding mirroring the conditions with the other concrete plant in the area and to limit the crushing to 10 operating days.

On motion by Jenny Mongeau, seconded by Sebastian McDougall, the Planning Commission *DENIED* the Interim Use Permit due to the following: Conflict with Comprehensive Plan regarding agricultural land, the inability to regulate the water and Kurtz Township's lack of approval. Roll call vote:

Sebastian McDougall	yes
Brad Eldred	nay
Josh Schroeder	yes
Dave Steichen	nay
Laura Johnson	yes
Jenny Mongeau	yes
Kurt Skjerven	nay
Joel Hildebrandt	yes

STEPHEN AND DEBORAH EKRE – REQUEST FOR INTERIM USE - MINING PERMIT

The applicant is seeking an Interim Use - Mining Permit for a gravel mine on Parcel ID: 13.032.1000, the NE1/4 and E1/2 of the NW1/4 of Section 32, Township 139N, Range 45W, Hawley Township.

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

Matt Jacobson, Planning Director, advised Bruce Squires is representing the owners Stephen and Deborah Ekre in their request for an Interim Use Permit for a gravel mine. The property is a 160-acre parcel 1.25 miles southeast of the Clay County landfill in Hawley Township. The current use is agricultural. The zoning is Agricultural General (AG) with an overlay zoning of Resource Protection-Biological (RP-Bio) on the west area of the parcel. There is prime farmland (CER 61-74). There is native prairie and also wetlands (rare seepage types) on the property. A map was reviewed outlining these areas on the parcel.

The focus of the mining would be construction-grade sand and smaller quantities of gravel. This material is primarily used for base aggregate, backfill, and general construction purposes. There is limited potential for Class 5 aggregate if gravel quantities are sufficient for crushing.

The extraction process would include stripping and stockpiling the topsoil and clay overburden along the

northern edge for screening and later reclamation purposes. Material will be mined using a front-end loader, removing sand and gravel from the shallow deposits of 15 to 20 feet deep. Excavated material will be stockpiled, screened or crushed, depending on the size and market demand. Crushing would occur intermittently using portable equipment such as cone, crusher, screen, conveyors) for short durations – typically a few days to a week.

On site processing would not include washing or dewatering. Screened or crushed processed material will be stockpiled onsite before hauling. The haul and transportation routes would comprise of hauling product offsite using highway-legal trucks via an existing township road that connects to CSAH 10, which is the same route as a nearby active pit. Water and magnesium chloride applications will be used on the haul roads for dust control.

Operations would be seasonal from April/May to October/November. Estimated 30 to 50 working days per year, depending on market demand. Typical hours would be 6:00 AM to 7:00 PM Monday through Saturday. There would normally be 2 workers onsite, with up to four during peak demands. Portable sanitary facilities and potable water will be available. Service trucks will refuel equipment as needed, with limited onsite storage of diesel, gar and grease in double-walled or bermed containers.

There was no groundwater encountered during test pits of 12 to 15 feet deep. There is no water discharge expected. Any stormwater will infiltrate within the pit and percolate naturally. Progressive reclamation will occur as mining advances northward, with each mined phase restored using stockpiled topsoils and clay to resume agricultural use. There are 10 to 12 acres estimated per mining phase. No permanent water feature is anticipated.

The only comment received was from Hawley Township, and the Township would require a Conditional Use Permit for this mining activity.

Director Jacobson provided this information regarding environmental considerations pertaining to this request:

Under Minnesota Rules part 4410.4300, subpart 12(B), an Environmental Assessment Worksheet (EAW) is mandatory for the development of a facility for the extraction or mining of sand, gravel, or other nonmetallic minerals if the project will excavate 40 or more acres of land to a mean depth of ten feet or greater during its existence. The proposed Ekre operation involves a 40-acre mining area with an anticipated depth of 15 to 20 feet. Because the proposed excavation area is at the 40-acre threshold, the project falls on the line of the mandatory category. If total disturbed acreage equals or exceeds 40 acres, an EAW would be required prior to permit issuance. However, if the operation is conditioned and verified to remain below 40 acres of total disturbance, the mandatory EAW requirement is not triggered.

Director Jacobson stated that the way to avoid this condition is to remain at 39 acres or less, if this is acceptable to the applicant.

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

Natural Resources and the Environment – Aggregate Resources:

2. Foster a balanced approach to aggregate resource extraction that is compatible with the natural Resources and the rural character of Clay County.
 - a. Require adequate buffering and landscaping for new mining operations when adjacent to existing residential areas as well as when an existing operation expands or is substantially modified and would negatively impact existing land uses in the surround area.
 - b. Avoid or mitigate against impacts to groundwater, surface water, native prairie, woodlands, and wetlands for new or expanding mining operations.

- c. Require phased-end reclamation plans and bonds to ensure mines are reclaimed as mining progresses.
- d. Consider the cumulative impacts of existing nearby mining operations for new or expanding operations on the environment, agricultural lands, residential areas, and transportation infrastructure.

This operation would be over 1000 feet from the nearest residence; our minimum setback requirement is 500 feet. They would construct a berm along the northern edge for screening for noise and visual impacts. Limits for seasonal and weekday hours would reduce nuisance potential, which would help achieve adequate buffering and preserve the rural character. This area will be all upland cropland with no wetlands of native prairie within the 40-acre footprint. Test pits encountered no groundwater at 15 feet and the pit floor will remain at least 10 feet above the water table. The site drains west toward wetlands on the Audubon Prairie Preserve, but separation in elevation of 50 feet and adherence to the RP-Bio setback regarding the calcareous fern which relies on groundwater flowing into the wetlands from the east. There will be a 100-foot setback from this RP-Bio zoning area.

A \$1,000-per-acre reclamation bond will guarantee completion of final grading and revegetation to return this land back to cropland. The County Engineer had no concerns regarding the proposed haul route.

Director Jacobson explained a 3-year look back for amending their Interim Use Permit and his recommendation would be to set the limit of mining at 39 acres.

Bruce Squires represented the landowner and Applicant. He is a retired geologist with over 50 years of experience. He stated that the excavating will be a smaller mining pit (10-12 acres) and will be reclaimed as mining progresses so the owners can continue to farm the property. Dave Asplin will be operating the excavation of the mining. Mr. Squires explained the purpose and necessity of good-quality sand within the construction industry of this community and that this project is quite environmentally friendly.

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

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

Staff recommends the following minimum Conditions:

1. Permit shall expire on December 31, 2035.
2. Operate within the provisions of the Clay County Land Development Ordinance.
3. Operator shall control dust and provide necessary maintenance on any/all gravel haul roads (mid-March through May).
4. Operator shall control fugitive dust within the mining area.
5. All berms must be seeded to perennial vegetation.
6. Operator shall provide proof of NPDES/SDS, Water Appropriations, 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 the Wetlands Conservation Act. Operator must complete a wetland consultation with the County Wetland Conservation Act Coordinator.
8. Mining operations, including open pit, staging and stockpiling areas, internal haul roads, and associated structures must not exceed 39 acres. This includes all past acreage that has been mined and reclaimed.
9. All mining activities must occur at minimum 10 feet above the groundwater table.

10. Operator must construct a berm along the northern and northwestern extents of the mining area to shield residences from operation.
11. Operator must control for noxious weeds on site.
12. Operator must post a \$1,000/acre reclamation bond.
13. Operator must maintain reduced truck speeds and minimize noise and dust.
14. Operator must reclaim mined out areas as mining activities progress. Reclamation must be to landowner specifications.
15. Operator shall provide parking, screening, lighting, drainage, and portable sewer facilities consistent with County regulations as determined by the Planning Department and County Health Department.
16. 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.
17. Operations at the site are limited to March through December, Monday through Friday 7:00 AM to 7:00 PM, and hauling only on Saturday from 7:00 AM to 2:00 PM, unless prior approval is received from the Planning Department.

On motion by Brad Eldred, seconded by Kurt Skjerven, and unanimously carried, the Planning Commission *GRANTED* the Interim Use-Mining Permit with the following conditions:

1. Permit shall expire on December 31, 2035.
2. Operate within the provisions of the Clay County Land Development Ordinance.
3. Operator shall control dust and provide necessary maintenance on any/all gravel haul roads (mid-March through May).
4. Operator shall control fugitive dust within the mining area.
5. All berms must be seeded to perennial vegetation.
6. Operator shall provide proof of NPDES/SDS, Water Appropriations, 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 the Wetlands Conservation Act. Operator must complete a wetland consultation with the County Wetland Conservation Act Coordinator.
8. Mining operations, including open pit, staging and stockpiling areas, internal haul roads, and associated structures must not exceed 39 acres. This includes all past acreage that has been mined and reclaimed.
9. All mining activities must occur at minimum 10 feet above the groundwater table.
10. Operator must construct a berm along the northern and northwestern extents of the mining area to shield residences from operation.
11. Operator must control for noxious weeds on site.
12. Operator must post a \$1,000/acre reclamation bond.
13. Operator must maintain reduced truck speeds and minimize noise and dust.
14. Operator must reclaim mined out areas as mining activities progress. Reclamation must be to landowner specifications.
15. Operator shall provide parking, screening, lighting, drainage, and portable sewer facilities consistent with County regulations as determined by the Planning Department and County Health Department.
16. 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.

17. Operations at the site are limited to March through December, Monday through Friday 7:00 AM to 7:00 PM, and hauling only on Saturday from 7:00 AM to 2:00 PM, unless prior approval is received from the Planning Department.

VICTORIA LUCK – REQUEST FOR INTERM USE PERMIT

The applicant is seeking an Interim Use Permit for a dog boarding kennel on Parcel ID: 26.018.0201, part of the Government Lot 1, Section 18, Township 138N, Range 45W, Skree Township.

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

Matt Jacobson, Planning Director, advised the property is 12.4-acre residential parcel in Skree Township owned by Richard and Lisa Burns. The Applicant is Victoria Luck who anticipates purchasing this property contingent on approval of the requested Interim Use Permit to operate a dog kennel. Zoning is Agricultural General (AG) with overlay zoning of Resource Protection-Aggregate (RP-Agg).

Project details include a kennel capacity of an average of 20 dogs, up to a maximum of 40 dogs. The building will be new construction with insulated runs, sound-absorbing materials, and indoor climate control.

The outside exercise area will be fully fenced and directly connected to the kennel building. Hours of operation are anticipated to be opening the facility at 6:00 AM for drop off and outdoor activity limited to the hours of 7:00 AM to 9:00 PM.

Applicant proposes noise mitigation by building design and insulation. There is over 600 feet separating proposed kennel from the nearest residence. There are existing and enhanced vegetative buffers proposed. Restriction of outdoor activity during quiet hours.

Solid waste will be collected daily, stored in sealed containers, and removed by a licensed hauler. The waste area is at least 100 feet from the wells or septic systems. All buffers and setbacks maintain or exceed standards of § 8-6-17.

No comments have been received from the public or the Township regarding this request. The IUP must become effective only after ownership transfer has occurred.

2045 Comprehensive and Transportation Plan goals and standards applicable to this request include:

Land Use – Residential

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

Land Use – 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.

Victoria Luck mentioned that the current owner of the property is related to the nearest neighbor and she was able to speak with that neighbor regarding her plans. She advised she would be closing on the property later this week. She currently operates a dog daycare in West Fargo and also does pet sitting and dog walking.

She would be living in the house that is currently at the property and build the kennels along the existing tree line, and also add additional trees for screening. Construction is anticipated for spring 2026. The proposed dog run would be a 30x40 building to start and then do an approximately 15-foot side run. There would not be individual kennels/runs but would have a common play area.

Applicant asked if she wanted to do grooming in the future, if she would need to make a change to her permit request. Director Jacobson advised that the grooming aspect could be included or excluded in the permit conditions. Applicant advised that she would like to grow but doesn't want to be a huge operation. Grooming would be a potential service so she is able to send the dogs home smelling nice after their boarding.

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

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

Staff recommends the following minimum Conditions:

1. The IUP shall become effective only after Clay County Planning & Zoning verifies that property ownership has transferred from Richard and Lisa Burns to Victoria Luck.
2. The maximum number of dogs on the premises shall not exceed 40.
3. Hours of outdoor activity shall be limited to between 7:00 a.m. and 9:00 p.m.; dogs shall be housed indoors during all other hours.
4. Noise mitigation measures described in the application (insulated building, limited outdoor use, vegetative buffering) shall be maintained for the duration of the use.
5. Solid waste shall be collected daily, stored in sealed containers, and disposed of by a licensed waste-hauling service in compliance with applicable State and County standards.
6. The outdoor play area shall be fully fenced and maintained in good condition to contain all animals.
7. The IUP shall terminate upon cessation of kennel operations or transfer of property ownership, whichever occurs first, unless otherwise renewed in accordance with 8-11-8.
8. Operator shall obtain and maintain any other required permits or licenses related to animal boarding as required by State or local authorities.

Applicant asked about the limit of the number of dogs and asked for feedback from the Planning Commission members on that. Ms. Luck was advised that if she wished for more dogs in the future, what she would need to do and she was advised that she would need to request to amend the conditions on the Interim Use Permit. Ms. Luck agreed to the 8 stated conditions.

On motion by Sebastian McDougall, seconded by Kurt Skjerven, and unanimously carried, the Planning Commission GRANTED the Interim Use Permit with the following conditions:

1. The IUP shall become effective only after Clay County Planning & Zoning verifies that property ownership has transferred from Richard & Lisa Burns to Victoria Luck.
2. The maximum number of dogs on the premises shall not exceed 40.
3. Hours of outdoor activity shall be limited to between 7:00 AM and 9:00 PM; dogs shall be housed indoors during all other hours.
4. Noise mitigation measures described in the application (insulated building, limited outdoor use, vegetative buffering) shall be maintained for the duration of the use.
5. Solid waste shall be collected daily, stored in sealed containers, and disposed of by a licensed waste-hauling service in compliance with applicable State and County standards.
6. The outdoor play area shall be fully fenced and maintained in good condition to contain all animals.

7. The IUP shall terminate upon cessation of kennel operations or transfer of property ownership, whichever occurs first, unless otherwise renewed in accordance with § 8-11-8.
8. The operator shall obtain and maintain any other required permits or licenses related to animal boarding as required by State or local authorities.

TIMOTHY AND JANE NEPHEW – REQUEST FOR CONDITIONAL USE PERMIT

The applicant is seeking a conditional use permit to convert an accessory use to a principal use on Parcel ID: 24.002.1800, the Fractional E1/2 of the NE ¼, Section 2, Township 138N, Range 44W, Parke Township.

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

Matt Jacobson, Planning Director, went over the changing water levels of Ness Lake which is the north/northeast area of this parcel. There is a small 14x20 shed and a small hoop structure that were placed on the property in the late 1990s.

Zoning on this property is Agricultural General (AG) with overlay zoning of General Floodplain, Resource Protection – Biological (RP-Bio), and Shoreland-Special Protection (SP).

Applicant is requesting to construct a 1,280 square foot, 32x40 storage building to be used for personal use and storage. There would not be any electricity or other utilities to this structure.

Director Jacobson outlined the water levels of Ness Lake and reviewed the changes between 2013 and current levels. There were definitive conversations had with the Applicant regarding placement of the proposed structure.

Goals and Standards from the 2045 Comprehensive and Transportation Plan include:

1. Support the long-term protection of the County's strong and diverse agricultural economy.
 - c. Ensure that all new development is compatible with the character and quality of the County's agricultural areas.
1. Protect and enhance the health and vitality of Clay County surface waters including lakes, rivers and streams for the benefit and enjoyment of Clay County residents and visitors.
 - a. Reduce development on natural environment lakes in Clay County.
1. Protect and enhance remnant tracts of native prairie and forests for the benefit and enjoyment of Clay County residents and visitors.
 - b. Protect native and high-quality prairie and woodland tracts from residential, commercial and industrial development.

The proposed use would not take any prime farmland out of production. This would occur in an area that is determined to be previously disturbed land and Director Jacobson indicated a consultation with the County Wetland Conservation Act Coordinator would be appropriate prior to placing the structure.

Applicant Tim Nephew advised he does have electricity out on the property and he may potentially run that electricity to the storage building. He feels that the water levels have risen over the decades he has owned this property; however, they are now receding or stable. There is also elevation on the east side of the property.

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

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

Staff recommends the following minimum Conditions:

1. The use is strictly personal. No commercial activity is to occur on the property.
2. The floor of the structure must be at 1,347 feet or higher.

Applicant was in agreement with the two proposed conditions.

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

1. The use is strictly personal. No commercial activity is to occur on the property.
2. The floor of the structure must be at 1,347 feet or higher.

UNFINISHED BUSINESS:

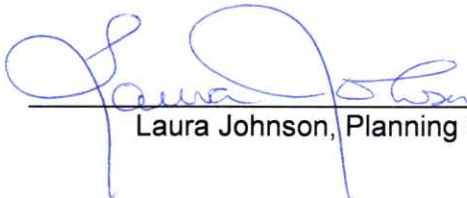
None

NEW BUSINESS:

- Truth and Taxation is scheduled for the same night as the December Planning Commission meeting. There was discussion to reschedule it to another date in December, starting it at a later time on the same date, or to just going ahead with the January 27th, 2026 date. With the timing of the holiday season, the consensus was to not have a December meeting.
- Reappointment of Ashley Heng to a second term on the Planning Commission
On motion by Brad Eldred, seconded by Kurt Skjerven and unanimously approved, the Planning Commission approved recommendation to the Board of Commissioners to re-appointment of Ashley Heng for a second term.

ADJOURNMENT:

On motion by Laura Johnson, seconded by Kurt Skjerven, and unanimously approved, the meeting adjourned at 9:39 PM.



Laura Johnson, Planning Commission Secretary