

MINUTES
CLAY COUNTY PLANNING COMMISSION
7:00 P.M., TUESDAY, JANUARY 26, 2016
MEETING ROOM B - THIRD FLOOR COURTHOUSE

Members Present: Mark Klevgaard, Tom Jensen, Mike Hulett, Jenny Mongeau, Dan Langseth, Tim Brendemuhl, Bill Davis, Andrea Koczur, David Heng

Members Absent: Randy Schellack, Amos Baer

Others Present: Tim Magnusson, Colleen Eck, Steve Beitelspacher, Jeff Eberhardt, Alisha Freitag, Dylan Retzlaff, Mark Ciernia, Bryan Green, Ken Simonson, Janel Simonson, Wanda Wang

Vice-Chair Dan Langseth called the meeting to order at 7:00 p.m.

APPROVAL OF AGENDA

On motion by Jenny Mongeau, seconded by Mike Hulett, and unanimously carried, the Commission approved the agenda.

APPROVAL OF MINUTES

On motion by Tom Jensen, seconded by Mark Klevgaard, and unanimously carried, the Commission approved the minutes from December 15, 2015, with the addition of a comment that Amos Baer had made regarding animal units.

CITIZENS TO BE HEARD

There were no citizens to be heard on matters not on the agenda.

KOST MATERIALS – INTERIM USE REQUEST FOR AGGREGATE MINING

The applicant is seeking approval of an Interim Use Permit to allow for the development of a new 39-acre aggregate mining operation. The affected property, owned by Cody Erickson, is located in the West Half, NE Quarter, Section 27, T142N, R45W (Hagen Township). Said property is located in the Agricultural General (AG) and Resource Protection – Aggregate (RP-Agg) zoning districts.

On motion by Andrea Koczur, seconded by David Heng, and unanimously carried, the Planning Commission opened the public hearing.

Tim Magnusson, Planning Director, displayed an aerial of the site. He pointed out Hwy 34, the County gravel pit, the Dunham gravel pit, and the residential sites. He noted that if the permit is approved, the applicant intends to purchase the 80-acre parcel and would then commence mining on approximately 39 acres of it. The property provides frontage and access on 170th Ave N which is a gravel township road. The haul route would be west on 170th Ave N to 200th St N, then south one mile to 160th Ave N / County Rd 34. There are three homes located along 200th St. N, but no residential sites are closer than 2,000 feet to the proposed operation. The applicant

shall be required to establish dust control measures to minimize any dust impact from hauling operations. It appears that the operation would meet all the required setbacks. The site would be mined from north to south as described in the application. Upon reclamation this property would be utilized for agricultural or conservation purposes. There is drainage on the west side of the site that the operator would need to avoid. Lynn Foss, Soil and Water Conservation District, will need to do a wetlands evaluation for the site.

Operations at this site would include the use of a dozer and front-end loader to feed material into processing equipment. Such equipment will consist of aggregate crushing equipment, screens, feeders and conveyors. Material will be hauled by end-dump trucks and trailers. Crushing operations at the site are intended to run for 24 hours a day for just two to three weeks per season. The request is to operate and haul material Monday thru Saturday, April thru November, from one hour before sunrise to one hour after sunset. Dave Heng asked if they could haul on a road without any houses along it.

The applicant, Jeff Eberhardt (Kost Materials) mentioned the locations of their other gravel pits. He noted that they drilled this site and found a relatively small, finite pocket of aggregate right where the "best potential" is shown on the map. There is no material to the south. The landowner, Cody Erickson, is out of town, but signed off on the application. Eberhardt will be meeting with Hagen Twp next week to discuss the township's concerns and the haul roads. The company plans to help with dust control on the haul road. Eberhardt mentioned that the pit on Daniel Green's property is much more active than what is expected of this pit. He added that they will take ownership of their operations and watch for dust and speeding on the haul road. They are also willing to discuss any restrictions that the County may deem necessary with their hours of operation.

Mark Ciernia, Hagen Township officer, stated that many of the neighbors in this area have called him, and the last thing they want is another gravel pit. This pit would be the sixth one in this area and eighth open pit in the township. The township is concerned about the west route because water flows that way. The road also narrows down to 18 feet wide at the corner. At the south side, the base gets steeper and steeper. The road is pretty saturated most of the year and he's not sure how it would hold up to truck traffic. The road is often wet and will have frost boils. At a quarter mile north, at the Green pit, they have an asphalt plant and will also be hauling this spring. One resident along there is a relative of the landowner. Another resident is disheartened and may put his property up for sale in the spring. There are also two residents who live on 170th Ave. going north along a one-mile stretch of township road who are not too excited about meeting gravel truck traffic. There are also kids and bikes on the road. If the trucks go east, five residents will be affected. There is already traffic on it from the Lomsdalen pit. The residents on the east side want the traffic to go west and vice-versa. Going west on 170th is where the road narrows to 18 feet.

Wanda Wang stated she lives in the second house down from the site, along 200th Street. She noted the Green's truck traffic is "ridiculous." Chloride on the roads helps to a point, but even then there is dust. The trucks are already non-stop and if this pit gets approval they would consider moving. They can't enjoy being outside for one thing and the traffic has taken the fun out of living in the country. She mentioned two other residents with little kids, too. They had complained a couple of years ago about gravel haulers who were speeding. She added that the

companies don't always follow the rules. She noted that a person would really have to live out there to understand what it's like. She counted trucks for a half hour one day and they totaled 36. She is most concerned about safety.

Magnusson asked the applicant for his projecting. Eberhardt stated that they currently run 25 end-dump trucks out of five sites. If they would run six trucks for two weeks at this location, they would get their resources. They may not open the pit right away unless that is a stipulation of the permit. He estimated approximately 25 loads in and out a day (50 one-way trips) during operations at this site. They have a small stockpile of the same type of material in town already. It's pretty restrictive material. The Kost family has owned and continues to own a lot of land out here. They recently sold some land to the Nature Conservancy. Their operations tend to be a little different because they aren't just leasing the land for a period of time. They have a pit in Norman County where they have widened the road for their trucks and they drive slowly as to not scare the deer from the area. They are familiar with frost boils in the spring, and they do not foresee any problems with the width of this road.

Janelle Simonson stated that she owns the property surrounding Wanda Wang's residence. She asked the applicant about hours of operation, lights, noise, etc. that would be expected with the proposed pit. She and Wang both noted that the Daniel Green pit is very loud. The applicant noted that they will not wash sand or go into the ground water here. He commented that the back-up beepers are loud, but there is not a lot they can do about it. Magnusson mentioned a new white noise technology for back-up alarms that is quieter.

Mike Hulett stated that there are a lot of concerns regarding noise and dust and safety. He asked if the Planning Commission has the ability to deny an application for mining when there are a lot of issues with it. Magnusson noted that it's possible if there are enough issues that cannot be mitigated with conditions. There may have been one mining permit that was not granted because of native prairie issues. These permits are sort of "permit by right," but can be conditioned any way the Planning Commission sees fit. Mining is permitted in this zoning district. David Heng noted that he has gravel trucks by his house, too, and that the County collects gravel tax on all these sites. Magnusson added that the gravel tax goes to the affected township, the road and bridge fund, and the reclamation fund. The aggregate deposits are not always in ideal locations. Jenny Mongeau added that the gravel tax rate was increased recently and makes a big difference. Bill Davis asked about requiring companies to put more chloride on the roads, and Magnusson noted that dust is a legitimate safety factor for haulers and others. When there is more than one operator using a road, they need to work together regarding dust control measures. Requiring chloride in front of residents twice a year isn't unreasonable. Mongeau added that if someone is privately putting down chloride they need to communicate that with the blade operators from the County Highway Department so it isn't bladed down.

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

The Findings of Fact and Order were addressed by the Planning Commissioners as they pertain to the requested permit. All of the items can be addressed with conditions and none of them warranted further discussion. Magnusson noted that these are the same conditions as last month. Neighbors can call in and let the Planning office know when product is needed on road. Andrea

Koczur noted that between three operators on that road, they should be providing chloride for a longer stretch of road.

On motion by Mike Hulett, seconded by Tom Jensen, and carried with one abstaining vote from Jenny Mongeau, the Planning Commission approved Kost Materials request for an Interim Use Permit for development of a 39-acre aggregate mining operation in the W ½ NE ¼ Section 27, Hagen Township, with the following conditions:

- 1. Operations shall start up within 5 years (Jan 31, 2021); and permit shall expire ten years later (Jan 31, 2031)**
- 2. Operate within provisions of the Clay County Land Development Ordinance.**
- 3. Operator shall control dust and shall apply calcium or magnesium chloride in front of all residences located along the haul route at least at annually, and as needed.**
- 4. Months/Days/Hours of operation: April thru November / Monday thru Saturday / Hours - 6 am to 9 pm, with the exception of no crushing on Saturday. Twenty-four hour operations may be allowed after giving prior notice to neighbors following approval from the Planning Office.**
- 5. Operator shall provide proof of NPDES/SDS, Storm Water Management, and Air Quality Permits, as required, to the Planning Office and shall be in compliance with any and all local/state/federal regulating agencies prior to commencing mining operations.**
- 6. Operator shall contact Clay SWCD and have wetland evaluation completed before any mining commences. Operations must comply with all provisions of Wetlands Conservation Act. A wetlands report must be submitted to the Planning Office.**
- 7. A maximum of 39 acres is approved for mining operations (excavation, screening, crushing, stockpiling, etc.) as shown on attached aerial photo. No additional acres can be opened without first completing an Environmental Assessment Worksheet and receiving a new or amended IUP.**
- 8. Require applicant to post a reclamation bond of \$1,000 per acre.**
- 9. Require applicant to reclaim mined areas to native prairie grasses or to landowner's specification upon reclamation.**
- 10. Applicant shall provide parking, screening, lighting, drainage, and portable sewer facilities consistent with County regulations as determined by the Planning Department and County Health Department.**
- 11. Operator is to present a detailed mine plan to Planning Office indicating exact area to be mined, , areas of stockpiled overburden, 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.**
- 12. Appropriate safety signage must be posted on the road indicating trucks entering/hauling.**

DYLAN RETZLAFF AND ALISHA FREITAG – INTERIM USE REQUEST

The applicant is seeking approval of an Interim Use Permit to allow the establishment of a horse boarding/training facility. The affected property is a 7.4 acre parcel located in the SW Quarter, NW Quarter, Section 26, T138N, R48W (Kurtz Twp.) in the Agricultural General (AG) zoning district.

On motion by Mike Hulett, seconded by Tom Jensen, and unanimously carried, the Planning Commission opened the public hearing.

Tim Magnusson, Planning Director, displayed an aerial of the site and mentioned that Rustad is to the west. This site is located approximately a half mile north of 110th Avenue South (Co. Rd. 8). The applicant's sketch was also shown with the house, arena, paddocks, and manure storage areas. There is also a run and a fenced area. There is a drain to the east, outside the property lines. The proposed use can meet the setbacks required for an Agricultural Service Establishment as found in the Clay County Development Code. Much of the property is woodlot and pasture land. No cultivated agricultural land will be taken out of production. The applicant is requesting a maximum of 35 horses to be maintained on site. There are no residences, other than the owner's, within 2,500 feet of the barn/stable facility. The nearest neighbor is a half mile away. The manure will be land applied, at least annually, to nearby fields. There was a change of ownership at the site and the new owners were asked to obtain a permit and to operate according to county requirements. The property is not large enough to be classified as agricultural property. The County Feedlot Officer, Craig Halvorson, has been to the site. He may require that they register as a feedlot because vegetation cannot be maintained in paddock areas.

The staff recommendation was to approve the request with a list of conditions as written in the staff report.

The applicant, Dustin Retzlaff, stated that so far they have gotten rid of more manure from the site than what was produced since they took ownership. There was a huge pile in the north corner that is completely gone. The shelter on the north side of the site is a run for Alisha Freitag's personal horses. Magnusson noted that the State Department of Health requires there to be at least 50 feet between animals and the water well. Retzlaff stated that they have some temporary fencing up that may need to be moved a bit to meet the 50-foot setback. He noted that there are 12 stalls in the stall barn and some outdoor stalls with paddocks. They currently have the manure in the northwest corner of the riding arena. Alisha Freitag added that they don't actually expect to have 35 horses, but wanted to have some leeway in the permit. They expect to have 24 to 25 at the most. One pen can hold three to five horses if they all get along really well, which doesn't always happen. They sometimes have to move them around to see which horses do well together. They also have a small run for two other horses in case of bad weather. They have talked to the farmer who owns the land around them regarding fencing and boarders. They have three landowners who get the manure. The horses are not their primary income right now. They board some horses, but have not done any training yet. They have one hay supplier already and are looking for one or two more suppliers. They do net-wrap hay bales. Freitag's parents live 20 miles south and they store the bulk of the hay on their property until their supply gets low.

On motion by Mike Hulett, seconded by Bill Davis, and unanimously carried, the Planning Commission closed the public hearing.

The Findings of Fact and Order were addressed by the Planning Commissioners as they pertain to the requested permit. All of the items can be addressed with conditions and none of them warranted further discussion.

On motion by Mike Hulett, seconded by Bill Davis, and unanimously carried, the Planning Commission approved the request from Dylan Retzlaff and Alisha Frietag for an Interim Use Permit to allow the establishment of a horse boarding/training facility on a 7.4-acre parcel located in the SW¹/₄ NW¹/₄ Section 26, Kurtz Twp. The following conditions were place on the permit:

- 1. A maximum of 25 horses may be on site at any given time.**
- 2. Facility shall meet all County regulations and any other applicable Local/State/Federal requirements.**
- 3. Hours and days of operation: 6 a.m. to 10 p.m. Sunday thru Saturday.**
- 4. Applicant shall have manure removed from site and land applied at least once a year.**
- 5. Facility must be in compliance with applicable statutes, ordinances, and related rules including, but not limited to feedlot rules, well separation.**

BUSINESS ITEM(S):

Recommendation to reappoint Tom Jensen to his third 3-year term and Mark Klevgaard to his second 3-year term

On motion by Mike Hulett, seconded by Bill Davis, and unanimously carried, the Planning Commission recommended to the County Board the appointments of Tom Jensen to his third 3-year term and Mark Klevgaard to his second 3-year term on the Planning Commission.

On motion by Tom Jensen, and seconded by Andrea Koczur, the meeting was adjourned at 8:45 p.m.

Andrea Koczur, Planning Commission Secretary