

MINUTES
CLAY COUNTY PLANNING COMMISSION
7:00 P.M., TUESDAY, MARCH 22, 2016
MEETING ROOM B - THIRD FLOOR COURTHOUSE

Members Present: Mark Klevgaard, Tom Jensen, Jenny Mongeau, Bill Davis, Andrea Koczur, David Heng, Randy Schellack, Amos Baer, Tim Brendemuhl

Members Absent: Mike Hulett, Dan Langseth

Others Present: Tim Magnusson, Colleen Eck, Jenny Samarzja, Kirk Rosenberger, David Sogn, Jeff Rehder, Josh West, Matt Mackelberg

APPROVAL OF AGENDA

On motion by Tim Brendemuhl, seconded by Tom Jensen, and unanimously carried, the Commission approved the agenda.

APPROVAL OF MINUTES

On motion by Jenny Mongeau, seconded by Andrea Koczur, and unanimously carried, the Commission approved the February 23, 2016 minutes as presented.

CITIZENS TO BE HEARD

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

CLAY COUNTY SOLID WASTE – CONDITIONAL USE REQUEST FOR SHOP BUILDING

The applicant is seeking approval of a Conditional Use Permit to allow for the construction and operation of a joint Highway Dept. / Solid Waste Dept. shop building. Said building would house equipment for both departments and would be located on property owned by Clay County. The affected property is located in the fractional South Half less 9.83 acres of the North Half, Section 19, T139N, R45W (Hawley Twp). The property is in the Agricultural General (AG) and Resource Protection-Aggregate (RP-Agg) zoning districts.

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

Tim Magnusson, Planning Director, displayed the site on an aerial view and noted that because it is located in the Resource Protection–Aggregate (RP-Agg) zoning district, the Conditional Use is needed. The subject property is approximately 2.5 acres of an 86.5-acre parcel. The 2.5 acres would be used for the building site as well as a surrounding gravel lot and access. The building would be approximately 90' x 204' and be located on County-owned property just north of the existing landfill scale. The project would involve site grading, water & sewer, above-ground fuel tanks and an 18,360 square foot building. Access to the building would be on an existing

entrance to the County's municipal landfill off of 109th St S/Co Rd 23. The structure would meet all the required setbacks. The County Highway Department intends to consolidate their Hawley shop and Rollag shop at this location which is just two miles off U.S. Hwy 10. Magnusson displayed a schematic of the proposed shop, onsite fuel storage area, and septic system. The building would be facing 90th St S. The building would also be used for the landfill shop and for residential electronics until they are trucked off site. There would also be a lunch/break room and bathroom on the mezzanine level. The shop would be similar to the Barnesville highway shop, but larger and less doors. They will have diagonal parking. Hawley Township already heard the request and granted a township permit. Trucks will go out in the morning and the plows when needed. Magnusson pointed out the existing landfill office, leachate pumping area and truck scale locations

Tom Jensen mentioned the three large floor drains in the new building, and Magnusson stated that anything from the drains would go into a tank and not be allowed to free-flow. There was also a compost site approved on the same landfill property that is to the west of this location.

Dave Overbo, County Highway Engineer stated that the current Rollag and Hawley highway shops would be sold. There was an informational meeting held in December with the four townships in this area about the proposed changes to shop locations. This location is six miles west of the City of Hawley. With the miles that the equipment would deadhead, it would add about \$2 per mile onto the townships' costs for next year. The Barnesville shop would cover Tansem Township, and the furthest township covered by the proposed location is Highland Grove. There would be the least amount of changes with this location during the winter months. The road is hard surface and the proposed use should not add that many more trucks to the road. Overbo added that if they fuel at the proposed location, they save both time and money.

The chair asked if there was anyone who wished to comment for or against the proposal.

On motion by Dave Heng, seconded by Tom Jensen, 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 items can be addressed with conditions and none were found to warrant further discussion.

On motion by Dave Heng, seconded by Tim Brendemuhl, and unanimously carried, the Planning Commission approved a request from Clay County Solid Waste Department for a Conditional Use Permit to allow for the construction and operation of a joint Highway Department/Solid Waste Department shop building on County-owned property in the fractional S¹/₂ N¹/₂, less 9.83 acres, Section 19, Hawley Twp with the following conditions:

- 1. Operate within provisions of the Clay County Land Development Ordinance.**
- 2. Operator shall provide proof of Storm Water Management permit (SWPPP), as required, to the Planning Office and shall be in compliance with any and all local/state/federal regulations.**
- 3. Operations must comply with all provisions of Wetlands Conservation Act.**
- 4. Above-ground fuel tanks shall have concrete diking to contain leakage in accordance with any applicable MN or Fed standards.**

- 5. Applicant shall provide parking, screening, lighting, drainage, and sewer facilities consistent with County regulations as determined by the Planning Department and County Health Department.**

SUMMIT SAND AND GRAVEL– INTERIM USE REQUEST FOR AGGREGATE MINING

The applicant is seeking approval of an Interim Use Permit to allow for the development of a new 20 acre aggregate mining operation. The affected property is located in the South East Quarter and NE Quarter, Section 16, T141N, R45W (Skree Twp.) in the Agricultural General (AG) zoning districts.

This request was not heard tonight due to an error in the public hearing notice. It will be re-advertised and heard at the next Planning Commission meeting.

SUMMIT SAND AND GRAVEL (SETER) - 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 is located in the West Half NE Quarter Section 35 and West Half SE Quarter Section 26, T139N, R46W (Riverton Twp.) in the Agricultural General (AG), Resource Protection - Biological (RP-Bio) and Resource Protection-Aggregate (RP-Agg) zoning districts.

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

Tim Magnusson displayed aerial views of the site. The site for the mining operations is approximately 39 acres of 474 acres, on two separate parcels. The natural areas from the County Biological Survey were shown on an aerial map. This mine is being proposed in the middle of a large native prairie complex that includes the Blue Stem Prairie. Much of the surrounding property has been acquired by the Nature Conservancy to be preserved and restored to native prairie. The land directly west of the proposed mining site is under Prairie Restorations. The nearest active mine is a mile and a half to the east. The setbacks for mining are 200 feet from the edge of the right-of-way, 500 feet setback from any part of the mine to a residence, and 300 feet from any tributary. Any trees on the site should not be affected.

Magnusson stated that an Environmental Assessment Worksheet (EAW) is mandatory for mining at least 40 acres to a mean depth of 10 feet. This site is under 30 acres with the setbacks, but Magnusson recommended a discretionary EAW for this site to see what potential impacts might occur at this site. The EAW process could take six months to complete and the applicant would incur all expenses associated with it. The Regulatory Government Unit (RGU) would be Clay County. The Planning Commission would make the final decision on the matter of the EAW. It would not go to the County Board of Commissioners for approval. Ordering a discretionary EAW would “stay the whole process” and the 60-day rule would not be in effect. Magnusson noted that the aspen trees are not protected, but are a relic of the prairie areas. The

site is fenced and is currently used for pasture.

The Applicant, Dave Sogn (Summit Sand and Gravel) stated that they would leave the aspen trees. The site has been pastured down to being almost bare. He commented that the Department of Natural Resources (DNR) wants to protect all the land in this area, but the landowners have an interest in selling the aggregate product that is here. The Seter family, who own the property could not be at the meeting tonight. Sogn was informed that an EAW could take two to six months and could cost as much as \$40,000. He noted that there are 30-foot hills with a million tons of product, but the cost of an EAW could make them think twice about mining it. The landowners do not have an alternative mining site and this could change their entire business plan. Magnusson calculated that, with setbacks, approximately 27 acres of the area could be mined. They would use silt barriers if needed, and will apply for a storm water runoff permit. He estimated that they would be over 300 feet from the water. Sogn stated that the truck route would be to the west on Co Rd 12, then west to State Hwy 9, and continuing west to Co Rd 17.

Matt Mackelberg, Nature Conservancy, stated that he would be in favor of having an EAW done for the site because of the close proximity to natural areas. He added that they do pay some taxes on some of the property they own. If they get an income off the property, they pay taxes on it. He stated that he lives in Moorhead and his office is in rural Glyndon. He was asked by Amos Baer if the EAW comes back negative, if Nature Conservancy would then be okay with mining this site. Mackelberg was not sure how his supervisor would respond to that outcome. He added that there are prairie chickens in the southeast corner of the Seter property. There are also calcareous fens nearby. Josh West, Summit Sand and Gravel, noted that this is already disturbed property with furrow marks. Magnusson noted that it is disturbed land, but it falls in the middle of areas that have not been disturbed, and everything surrounding it could be impacted by mining activities. Mackelberg added that immediately adjacent, to the west, is undisturbed land, and across Co Rd 12 there is plenty of undisturbed land.

Theresa Olson, Minnesota DNR from Bemidji, stated that she is also in favor of an EAW being done. She handed out a letter that was written by her supervisor. She noted that she grew up around here, enjoys the prairie areas, and this area is close to her heart. She stated that an EAW would provide facts necessary to determine if there are significant impacts with mining this site. It would also allow the public a chance to look at it and provide ways to lessen the impacts to the environment. She commented that just to the north, DNR has the Blue Stem Natural and Scientific Area and other mesic prairies. She went on to mention prairie rankings which indicate the significance of the prairie and the species found there. She stated that if an EAW is not recommended by the Planning Commission, the applicant should be required to have a study done for hydrologic and wetland impacts. There were comments from the Planning Commissioners suggesting that DNR should pay to have the EAW done if they find it necessary. Olson was asked what prompted DNR to get involved in this permit and the recent permits with the same applicant. She noted that anytime there may be a potential impact to a natural area, native prairie land, or calcareous fens, they ask that an EAW be prepared. She noted that they take everything in the proposed area into consideration, and mentioned the Felton Prairie Stewardship Plan which was enacted years ago. She commented that DNR is not here to slap regulations on, but to protect resources and allow mining in a reasonable and economic way. In the regulations, the RGU has to take the environment and possible effects to the groundwater into consideration. A hydrologic study could cost somewhere from \$5,000 on up. It would

include boring holes to determine the flow of groundwater and what wetlands are on the site.

The applicant stated that he has never been asked for a hydrological study or EAW. He was informed that there could be costs for engineers, attorneys, consultants, etc. The County Engineer, Dave Overbo, asked where the fens are located and was told he could contact the Natural Heritage Information System to get exact sites. Olson noted that the area is a glacial outwash and has just one percent of the fens that were originally there.

There was no one else present who wished to speak for or against the proposal.

On motion by Tim Brendemuhl, seconded by Dave Heng, and unanimously carried, the Planning Commission closed the public hearing.

Heng stated that he would have a hard time asking for an EAW to be done when they are digging sand from a ridge that has no better use, and the water there goes downhill and straight west. Schellack added that the site will be better overall after it is mined and reclaimed. There is not enough grass on this ridge to hold the sand down. Magnusson noted that this situation is unique as they are requesting a new gravel mining operation in a natural area. Koczur noted that she can understand staff's opinion, but this is a small business wanting to come in and remove material that is needed in the area. The price of doing the EAW is unknown and could be high. Magnusson commented that an EAW is done to determine if an Environmental Impact Statement (EIS), which is the more involved study, is needed. Davis added that there is not another use for this land as it stands now. Mongeau noted that they would be limited to mine 27 acres and are not planning to mine into the water table. They do not meet the criteria for a mandatory EAW.

The Findings of Fact and Order were each addressed by the Planning Commissioners as they pertain to the requested permit. The commissioners discussed access for the site as well as the adjoining property owner, Prairie Restorations.

On motion by Dave Heng, seconded by Randy Schellack, and unanimously carried, the Planning Commission approved the request from Summit Sand and Gravel for an Interim Use Permit to allow for the development of an aggregate mining operation in the W¹/₂ NE¹/₄ Section 35 and W¹/₂ SE¹/₄ Section 26, Riverton Twp, with the following conditions:

- 1. Permit shall terminate on December 31, 2023.**
- 2. Operate within provisions of the Clay County Land Development Ordinance and maintain all required setbacks from residences, property lines and road right-of-ways. Also maintain a 75-foot setback from any trees on site and a 300 foot setback from the tributary stream located to the south of the proposed mining site. No part of the mining operation, including overburden stockpiling can take place within these setbacks.**
- 3. Operator shall control dust by applying chloride in front of all residences located along the haul route and coordinate maintenance on any/all gravel haul roads with the Clay County Highway Department.**
- 4. Operator shall improve access onto CR 12 to meet Clay County Hwy. Department standards and place appropriate "Trucks Hauling/Entering" signage at entrance when hauling.**
- 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. Operations must comply with all provisions of Wetlands Conservation Act.**
- 7. A maximum of 27 acres approved for mining operations (excavation, screening, crushing, stockpiling, etc.) If additional acres are proposed to be opened in the future a new or amended IUP would be required.**
- 8. No mining shall be allowed in the water table and no trees can be removed from the site.**
- 9. Operator may operate March thru December, Monday thru Saturday, from 6 a.m. to 9 p.m.**
- 10. Operator is required to post \$1000 per acre reclamation bond and reclaim mined out areas as mining activities progress. Areas are to be seeded to native prairie grasses or reclaimed to the landowner's specifications.**
- 11. 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.**
- 12. Operator needs to present a 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 storm water management plan prior to commencing any operations at the site.**
- 13. Operator shall also provide documentation of legal road access.**

On motion by Tom Jensen, and seconded by Tim Brendemuhl, the meeting adjourned at 8:35 p.m.

Tom Jensen, Planning Commission Secretary