

MINUTES
CLAY COUNTY PLANNING COMMISSION
7:00 P.M., TUESDAY, JUNE 21, 2016
MEETING ROOM B - THIRD FLOOR COURTHOUSE

Members Present: Mark Klevgaard, Tom Jensen, Jenny Mongeau, Bill Davis, Randy Schellack, Amos Baer, Mike Hulett, Dan Langseth, Andrea Koczur, Frank Gross, David Heng

Members Absent: Tim Brendemuhl

Others Present: Tim Magnusson, Colleen Eck, Jenny Samarzja, Shelley Steichen, Ronald Butenhoff, Frank Schindler, Bradley Dunham, Derek Syverson, Marsha Ramstad, Mary Beth Fevig, Mike Hough, Marc Bushee, LeRoy Johnson, Jeff Bates, Kathy Ihle, Steve Busse

APPROVAL OF AGENDA

On motion by Mike Hulett, seconded by Tom Jensen, and unanimously carried, the Commission approved the agenda with one business item added by Jenny Mongeau in reference to Animal Units.

APPROVAL OF MINUTES

On motion by Mike Hulett, seconded by Randy Schellack, and unanimously carried, the Commission approved the minutes from May 17, 2016 with the following changes: Zenas Baer instead of Amos Baer and 270 lbs. instead of 120 lbs. on page two; and south instead of north on page eight.

CITIZENS TO BE HEARD

There were no citizens to be heard

HOUGH INCORPORATED REQUEST FOR INTERIM USE-GRAVEL MINING OPERATION – Continued

The applicant is seeking approval of an Interim Use Permit (IUP) to develop and operate a new gravel mine. Said mine is proposed to be approximately 39 acres in size. The parcel affected would be 52.73 acres in the E Half, NW Quarter, Section 18, T141N, R44W (Goose Prairie Twp). Access to property is from 120th Avenue North, a township road. Activities will include extraction, crushing/screening and stockpiling of materials. The property is in the Agricultural General and Resource Protection-Aggregate zoning districts.

On motion by Jenny Mongeau, seconded by Randy Schellack, and unanimously carried, the Planning Commission approved removing the item that was tabled at the May 27 meeting pertaining to Hough's request for an IUP. Mike Hulett then withdrew his motion from the May 27 meeting to deny the request. On motion by Andrea Koczur, seconded by Mark Klevgaard, and unanimously carried, the public hearing was reopened.

Tim Magnusson stated that the applicant had been asked to seek access to this site across the property to the west so all truck traffic from all area mines could enter and exit at the same intersection. Since last month's meeting, Magnusson has had a couple conversations regarding this request. He spoke with an attorney who was unsuccessful in his efforts to gain access through the land to the west of the site for the applicant to use as a truck route. He also spoke to one of the township officers about the roads and was informed that there was an accident involving an automobile and gravel equipment since the last meeting at the intersection of County Road 33 and the township road.

The applicant, Mike Hough, Hough Inc., stated that after a failed effort to gain access through the property to the west, he would propose to have truck traffic go straight south to 120th Avenue and then west on Co. Rd. 33. He added that there are a lot of other gravel mines using township roads for access, and he talked to the township about getting the township road upgraded and maintained, which were the main concerns. The route going south would be 750 feet to the east of the nearest residence which is 150 feet further than the residence is located from the county road. The next nearest residential driveway is over 1000 feet away. They would also have trucking warning signs posted and would work with the County Engineer office and the township on road requirements.

Mary Beth Fevig introduced herself and her sister, Marsha Ramstad as two of the three property owners. They showed the commission some slides that they had taken of the proposed site. Fevig noted that they are in favor of the requested mining permit. Their parents purchased this site back in 1947 and raised the family there. Today, the three sisters have ownership of it and it has been farmed for over 20 years. They noted that they always respected the neighbors and treated them as friends. They are willing to address all concerns and safety issues with mining the site. They offered the landowner to the west four times the market value of his land to be able to have the gravel trucks cross his property for ingress and egress. They noted that Aggregate Industries was not willing to work with them, either. They selected Mike Hough who is a friend and operates a small mining operation. Ramstad stated that the neighbors may not want the mining, but there are no homeowner restrictions in this area and they have rights as property owners and tax payers. They looked at other mining permits that have been issued in the county after opposition from other neighbors, too. They would be sure that Hough would meet the county requirements. They would also be paying county gravel taxes. They are also concerned with safety at the site and have spoken to Chief Assistant Matt Siiro from the Sheriff's office. They were told that there are other parts of the county with higher rates of accidents. Hough's trucks have not been involved in any accidents. Ramstad added that calcium chloride is excellent for dust control and safe for animals.

Shelley Steichen, stated that she lives just south of 120th Avenue, and the accident yesterday was at the intersection of 120th Avenue and Co Rd 33 and was because of visibility. She talked to the sheriff about it. Her neighbor, Mary Colson, could not be here, but she will have trucks in all directions of her house. There is a safety issue with slower trucks entering the road and other trucks already on the road. She mentioned signage and where it is needed.

The chairman asked if there was anyone else present who wished to speak for or against the request.

On motion by Dan Langseth, seconded by Jenny Mongeau, and unanimously carried, the Planning Commission closed the hearing.

Davis noted that he was out to the site looking at the road and the traffic. He believed that the road looked wide enough and is a quarter mile from the nearest house which seemed to be a reasonable distance. He stated that the chloride doesn't leach into the grass and the grass has not been affected by it. It looks like a viable project to him. Hulett stated that one of the main concerns at the last meeting was the condition of the road and whether it could support the traffic. The applicant had noted that he would be willing to upgrade the road. Magnusson commented that the original staff report was for denial because the original request was to mine over 40 acres. Some of the issues discussed at the last meeting were the roadway and the access as well as the impacts to the house in the middle. Klevgaard asked if the applicant could legally dump gravel and fix the road. Koczur stated that the township would have to contract with them. Schellack added that dust control should help a lot on the gravel. He noted that you can see cars go down in the dip and come back up again, and trucks should provide even better visibility. Davis commented that the drivers he saw were cautious and reasonable. Magnusson stated that the trucks are loud on gravel and worse when they are empty. The applicant is asking for Monday through Saturday and did not request any 24-hour crushing or other 24-hour operations. Davis stated they will be building a quarter mile long road down the edge of their property to 120th Avenue.

Two of the township officers were present (Brad Dunham and Jeff Bates) and noted that following the County's approval of the request, they will need to contract with Hough or another company to blade that road.

Davis asked if their action on this request could set precedents for other requests. Samarzja explained how each site has its own issues and merits, and similar situations are used when setting precedents. Magnusson stated that the mining operations need to be setback at least 500 feet from residences. The access road could be considered part of operation, and the proposal would still meet the setback.

The Findings of Fact for Interim Use Permits were discussed at the last meeting and the Planning Commission found the following items to be applicable with this proposed mining site:

- 1. Effect of Use:** In granting a conditional use, the Planning Commission shall consider the effect of the proposed use upon the health, safety, morals and general welfare of occupants of surrounding lands, existing and anticipated land uses, traffic conditions including parking facilities on adjacent streets and land, and the effect on agricultural usage and values of property and scenic views in the surrounding areas, and the effect of the proposed use on existing comprehensive plans.
- 2. Use and Enjoyment of Other Property:** The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, and not substantially diminish or impair property values within the immediate vicinity.
- 4. Utilities, Access Roads, Drainage, Off-Street Parking and Loading Spaces:** Adequate measures have been or will be taken to provide utilities, access roads, drainage and off-street parking and loading spaces.

5. **Nuisance Conditions:** Adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, water pollution and soil erosion, so that none of these will constitute a nuisance, and to control lighted signs or other lights in such manner that no disturbance to neighboring properties will result.
7. **Compatibility:** The use will be sufficiently compatible or separated by distance or screening from adjacent agriculturally zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to agricultural use of said land.
12. **Traffic Hazards, Congestion in Flood Plain Areas:** The use will not cause traffic hazards or congestion and in flood plain areas has access during flooding for ordinary and emergency vehicles.

These same six items were addressed again tonight following additional information provided by the landowners, commissioners who had been to the site, staff, and township officers regarding the road, the needed improvements, etc., Planning Commission found that the items can be addressed with conditions.

On motion by Bill Davis, seconded by Mark Klevgaard, and unanimously carried, the Planning Commission approved Hough, Inc.'s request for an Interim Use Permit for a gravel mining operation in the E Half, NW Quarter, Section 18, Goose Prairie Twp 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 mine site and/or any haul roads.**
3. **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 other regulating agencies prior to starting mining operations.**
4. **Operator shall contact Clay SWCD and have wetland evaluation completed before any mining commences. Must comply with all provisions of Wetlands Conservation Act.**
5. **A maximum of 39 acres approved for mining.**
6. **Require applicant to post a reclamation bond for the acres to be mined.**
7. **Require applicant to reclaim mined out areas as mining activities progress. Require areas to be seeded to native prairie grasses or as specified within the lease agreement upon reclamation.**
8. **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.**
9. **Hours of operation: Monday thru Saturday, 6 a.m. to 8 p.m., April thru November.**
10. **Appropriate safety signage must be posted on the haul road indicating trucks entering/hauling.**

DEREK SYVERSON – INTERIM USE REQUEST

The applicant is seeking approval of an Interim Use Permit (IUP) - Home Occupation to allow the continuation of a use on his property. The site has and is being used as a custom cabinet shop. The affected property is a 6.68 acre parcel located in the NW Quarter SW Quarter, Section 17, T137N, R46W (Barnesville Twp.) in the Agricultural General zoning district.

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

Tim Magnusson, Planning Commission, stated that this IUP request is for the expansion and continuation of an existing cabinet shop that has been in business since 1987. The facility has never had a Conditional Use Permit (CUP) or IUP. The current owner was seeking a 6,000 square foot addition to the facility when it was determined that he should first apply for the IUP as required by the current Land Development Ordinance. Magnusson displayed the farm site and the existing outbuildings which are part of the operations. The planned addition would attach two of the facility's buildings. The facility has not created any problems, complaints, or concerns. It is approximately 16,000 square feet in area and employs a dozen people. It needs to have a county-approved septic system. No additional acreage will be taken out of agricultural production. Magnusson read the suggested conditions, and noted that if the property exchanges hands, a new IUP would be required. This permit would expire upon sale of property.

The applicant, Derek Syverson, stated that he bought the property and business in 2011. Currently, the break room and bathroom are across the yard. The proposed addition between the two buildings would speed up the flow of operations.

Tom Jensen commented that he has a very nice operation out there and no noise can be heard from off the site.

Ronald Butenhoff stated that he is also on the township board, but he is speaking as a neighbor, not a board member. He had no concerns and noted that there are no problems with traffic or dust or anything bothersome. He is glad to have him out there.

Frank Schindler stated that if the permit expires when the property changes hand, that decreases the value of the business. He thought it should be grandfathered in because it's an established site. When the applicant purchased it, he thought it was grandfathered in. Attorney Jenny Samarzja stated that an IUP – Home Occupation is the easiest way to deal with it rather than getting into rezoning. IUPs are for a defined period of time and the Planning Commission would want to look at it again if there was a new owner.

On motion by Jenny Mongeau, seconded by Dan Langseth, 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 Dan Langseth, seconded by Jenny Mongeau, and unanimously carried, the Planning Commission approved the request from Derek Syverson for an Interim Use Permit (IUP) - Home Occupation to allow the continuation of a custom cabinet shop on property located in the NW ¼ SW ¼ Section 17, Barnesville Township, with the following conditions:

- 1) Signage is restricted to a maximum of 64 sq. ft.

- 2) **Need to provide parking for 10 vehicles.**
- 3) **Hours of operation 8 a.m. to 5 p.m., Monday – Friday.**
- 4) **Permit ceases upon sale of property.**
- 5) **Need to meet all local, state, and federal requirements.**

JEM PROPERTY DEVELOPMENT LLC – REQUEST FOR REZONING

The applicant is seeking to remove the Urban Expansion Overlay zone from a parcel thereby leaving the parcel zoned only Agricultural General. If approved, this change in zoning would allow the applicant to apply for a Conditional Use Permit (CUP) for a use allowed in the Agricultural General zoning district. The proposed rezoning would affect a 4.79 acre parcel located in the NW Quarter, SE Quarter, Section 32, T139N, R48W (Moorhead Twp). Currently it is in the Agricultural General zoning district and Urban Expansion overlay zoning district.

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

Tim Magnusson stated this is similar to a request from last year, but this site is a mile from the city limits of Moorhead, rather than across the road from the city. The underlying zoning district is Agricultural General (AG) and the overlay zone is Urban Expansion (UE) zoning district (UE). The intent is to remove the UE zoning and leave the parcel with AG zoning. Magnusson displayed aerials of this site, the residences in the area, Moorhead Marine, and Stellar Trenching. This site was originally a business called Roger’s Cat Castle which sold and serviced snowmobiles. After it closed, the property exchanged hands a few times and now has a couple trailers parked at it. It has a 42’ x 160’ steel building located on it. The property has never been permitted by the county for any other commercial use, but there may be a commercial use there. The County Assessor’s office has the tax assessment on the site listed as commercial.

Magnusson pointed out the area in purple that designates the UE zoning district. The site is also in Moorhead’s 2009 Future Land Use Map. He recently met with Moorhead Planner Kristi Leshovsky regarding uses in the UE district. The county ordinance currently allows residences, but no commercial uses. The city has the site slated for future high density residential use (twin homes, townhouses, etc.) Magnusson noted that in the AG zoning district, warehousing and storage are allowed with a CUP. The proposed use may also have to be permitted by Moorhead Township. The term “spot zoning” was mentioned by Magnusson at the last similar hearing and Leshovsky also thought it could be considered “spot zoning.” Assistant Co. Attorney Jenny Samarzja stated that the city’s perspective might be spot zoning, but there are also other commercial uses along there. She assumed that those commercial uses are non-conforming uses. She added that the Planning Commission should start thinking about the intent of the UE zoning district, which should also be agreeable to the city. Samarzja noted that she cannot say whether or not it would be deemed as spot zoning, and a suit would have to be brought against the county regarding spot zoning.

The County adopted their current comprehensive plan in 2002 which includes the UE zoning district around the cities of Moorhead and Dilworth. The uses in the area in that zone should be compatible with Moorhead’s future growth development plan. Storage/warehousing would be contrary to the city’s plan. It may be chaotic to remove the UE zone here and there. The

proposed change in zoning last year to the north of this site was not approved. Jenny Mongeau noted that county staff and some of the Planning Commissioners had planned to meet following the proposal last year, but that was not done. There is also an 80-acre site just north of here that is for sale and there could be a similar issue at that site. Magnusson informed the commission that the UE overlay zoning district has not changed as the city has grown with the exception of the annexation north of Moorhead. Because of Hwy 75, some of the commissioners thought it may be a good area for some commercial uses.

Moorhead City Council Member Mike Hulett stated that the City will be out of available residential lots in a couple years. The City has the entire area south and east of Blue Stem Trollwood up to Hwy 75 slated as future residential property. The City has an industrial park and there is land available out by the Moorhead Airport.

Mark Bushe, representing JEM Property, stated they are proposing a range of smaller storage units and some larger household storage units. He also works in residential development and currently has 20 houses being built in the FM area. After doing research in the metro area, he found there is a need for more storage units. The City's growth has been in south Moorhead and the storage units can work with residential development. He felt this could be a good location, and it is their preferred site. He mentioned Moorhead Marine and the other buildings along there. This site is currently being used by contractors. They have already removed some of the vehicles and junk from the site. There would be no need for sewage or water and they would have security fencing with a gate. The first third of the land would be developed with 100 to 150 storage units, and the backside of the lot would be larger units for trucks and campers.

Any decision reached by the Planning Commission related to this rezoning request will be forwarded, as a recommendation, to the Clay County Board of Commissioners for a final action. The staff recommendation is for denial of this request for the following reason: The proposed zoning change and use is contrary to the Clay County Comprehensive Plan and the City of Moorhead 2009 Future Land Use Map (FLU) or Growth Area Plan (GAP).

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

The criteria and general review standards for consideration for the zoning change request was read from the staff report and discussed. The following items were found to be applicable:

- 2b. **Related to Overall Needs:** The rezoning is reasonably related to the overall needs of the County and to the existing land use.
- 2c. **Consistency with Ordinance:** The rezoning is consistent with the purposes of this Ordinance and the purposes of the zoning district in which the applicant seeks classification.
- 2d. **Conflict with the Comprehensive Plan:** The rezoning is not in conflict with the comprehensive plans of any township or city of the County or the County Land Use Plan.

On motion by Dan Langseth, seconded by Randy Schellack, and carried with a vote of six to three (nay votes: Tom Jensen, Mike Hulett and Bill Davis), the Planning Commission recommended approval to remove the Urban Expansion overlay district on a 4.79-acre

parcel located in the NW¹/₄ SE¹/₄ Section 32, Moorhead Twp. Said recommendation will be forwarded to County Board for final approval.

Animal Units

Jenny Mongeau informed the Planning Commission that the County Board voted to adopt the Minnesota State Standards for Animal Units starting January 2017. The next step is to form a small committee to address the thresholds for animal units in the County Ordinance. The committee will consist of the following volunteers: Craig Halvorson, Tim Magnusson, Jenny Samarzja, Jenny Mongeau, Dan Langseth, Amos Baer and Tom Jensen. Mongeau offered to schedule upcoming meetings.

On motion by Tom Jensen and seconded by Andrea Koczur, the meeting adjourned at 8:55 p.m.

Tom Jensen, Planning Commission Secretary