

MINUTES
CLAY COUNTY PLANNING COMMISSION
7:00 P.M., TUESDAY, AUGUST 16, 2016
MEETING ROOM B - THIRD FLOOR COURTHOUSE

Members Present: Mark Klevgaard, Tom Jensen, Jenny Mongeau, Randy Schellack, Amos Baer, Mike Hulett, Tim Brendemuhl, Dan Langseth, Andrea Koczur

Members Absent: Bill Davis

Others Present: Tim Magnusson, Colleen Eck, Jenny Samarzja, Craig Halverson, Marvin Blakeway, Curt Stubstad, Frank Gross, Shelley Steichen, Jeff Bates, Mary Colson, Ezra Baer, Judy Stubstad, Dorothy Ronsberg, Stuart Shulstad, Christel Baer, Benedikt Baer, Joel Baer, Alicia Baer, Jona Baer, Dennis Olsen, Brian Berg, Fred Haring, Zenas Baer, Dave Overbo

APPROVAL OF AGENDA

On motion by Jensen, seconded by Schellack, and unanimously carried, the Commission approved the agenda.

APPROVAL OF MINUTES

On motion by Mongeau, seconded by Brendemuhl, and unanimously carried, the Commission approved the minutes from July 19, 2016.

CITIZENS TO BE HEARD

There were no citizens to be heard

BAER HOGS LLP. - CONDITIONAL USE REQUEST

Chair Amos Baer recused himself from the public hearing because of his relationship with the applicant. Vice-Chair Andrea Koczur moved into the position to conduct the Baer Hogs, LLP public hearing.

The applicant is seeking approval of a Conditional Use Permit to allow the expansion of an existing hog feedlot. Said expansion would consist of a new total confinement barn to house 2,400 feeder hogs (55 to 300 lbs.). It will also include a walkway between buildings and a new compost building. The expansion would be in the SE Quarter SE Quarter, Section 23 and SW Quarter SW Quarter Section 24, T139N, R44W (Eglon Township). Said property is zoned Agricultural General (AG).

On motion by Hulett, seconded by Schellack, and unanimously carried, the Planning Commission approved opening the public hearing.

Tim Magnusson, Planning Director, stated he reviewed the Conditional Use Permit that was granted for the site in 2006 for a single barn with up to 3600 hogs. At that time, the applicant

built a smaller barn and has had 1200 hogs at that facility. Magnusson suggested the Planning Commission amend the original permit to allow for a second barn and a compost building. The number of animals does not need to be increased. Aerial views of the existing structures at the site and the surrounding properties were shown. The applicant printed a notice in the Hawley Herald for the proposed expansion. This new facility will be a 102' x 212' total confinement barn with slatted floors over engineered, reinforced, concrete holding tanks. The barn will hold 2,400 feeder hogs. The manure will be applied by a certified commercial applicator. Any dead animals will be disposed of by composting. No residential sites, not owned by the Baer family, are located within a half mile of the site. The barn would be located over 1,000 feet from Erickson and Jergenson Lakes. The Minnesota Pollution Control Agency (MPCA) and County Feedlot Officer are currently reviewing engineering of the proposed barn and the State feedlot permit application. Eglon Township does not have a zoning ordinance.

Attorney Zenas Baer, representing Baer Hogs, and Benedikt Baer were present to address any questions. Zenas Baer elaborated on the history of the facility that is permitted and gets inspected by MPCA. The manure, which he noted is a commodity, is removed from the site once a year, in the fall. They keep documentation of where it is applied.

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

Marv Blakeway, Hawley, MN, suggested that they consider a biofilter-type system to help with the odor. He asked if when they are done injecting manure on farmland if they can prevent it from pooling at the end during shut off.

On motion by Mongeau, seconded by Schellack, and unanimously carried, the Planning Commission closed the hearing.

The Findings of Fact for Interim Use Permits was read and there were no issues found.

On motion by Klevgaard, seconded by Brendemuhl, and unanimously carried, the Planning Commission approved an amendment to a 2006 Conditional Use Permit for Baer Hogs, LLP, to allow a second barn, a walkway between buildings, and a compost building. The following conditions (same as original permit) were applied:

- 1) Compliance with all appropriate setback and buffer strip requirements as per the Clay County Land Development Ordinance including combining of parcels to remove property line setback issue or a variance from property line as required.**
- 2) Receipt of appropriate State feedlot permit/certificate/registration and storm water management permit from MPCA. Copies of these documents shall be filed with the Planning office before animals are placed in the barn.**
- 3) Manure application must be by means of immediate injection into the soil to reduce potential odor and runoff issues.**
- 4) Review of the site by Soil and Water Conservation District (SWCD) for any possible wetland issues, and a copy of the SWCD report be filed with the Planning Office.**
- 5) Dead animal disposal in Accordance with Minnesota Board of Animal Health Regulations.**
- 6) If the use authorized in this permit is discontinued for a period of 12 or more consecutive months, this permit is no longer valid.**

AMENDMENT TO THE CLAY COUNTY LAND DEVELOPMENT ORDINANCE

Clay County is proposing an amendment to the Development Code which would allow an applicant who is applying for rezoning to seek a waiver of the one year waiting requirement after denial before re-applying. Said waiver request would be heard by the Clay County Board of Commissioners and could be allowed if approved by a four-fifths vote of the Board of Commissioners.

On motion by Koczur, seconded by Jensen, and unanimously carried, the Planning Commission approved opening the public hearing.

Tim Magnusson, Planning Director, stated that the County Boards of Commissioners have asked the Planning Commission to conduct a public hearing on a proposed text amendment to the Development Code. The Board would like an applicant to be able to waive the 12-month waiting period required for parties who are denied zoning district changes. Approval of any waiver to the waiting period would require a 4/5 vote by the County Board.

Current Ordinance language, (8-4-6-C-7) reads as follows:

7. Denial; Resubmission: In the event the request for amendment is denied by the Board of County Commissioners, no further request for the same district change in the same property shall be considered for at least one year.

Proposed Ordinance language, (8-4-6-C-7) reads as follows:

7. Denial; Resubmission: In the event the request for amendment is denied by the Board of County Commissioners, no further request for the same district change on the same property shall be considered for at least one year. A party may petition the Clay County Board of Commissioners to waive the one year waiting period for resubmission. Said waiver must be approved by a 4/5 vote of the Clay County Board of Commissioners.

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

On motion by Hulett, seconded by Schellack, and unanimously carried, the Planning Commission closed the hearing.

On motion by Koczur, seconded by Hulett, and unanimously carried, the Planning Commission recommended the following language be added to the Land Development Code (8-4-6-C-7): *Denial; Resubmission: In the event the request for amendment is denied by the Board of County Commissioners, no further request for the same district change on the same property shall be considered for at least one year. A party may petition the Clay County Board of Commissioners to waive the one year waiting period for resubmission. Said waiver must be approved by a 4/5 vote of the Clay County Board of Commissioners. Said recommendation would be forwarded to County Board of final action.*

OTHER BUSINESS:

Consideration to Re-open Hough IUP Hearing

County Highway Engineer Dave Overbo is seeking to place additional condition(s) on the

Interim Use Permit (IUP) that was recently granted to Hough for gravel mining in Goose Prairie Township. This would require the Planning Commission to reopen the Hough IUP at another public hearing to hear the concerns raised by the Highway Department. Overbo was present to address this issue, and noted that he also attended the Goose Prairie Township meeting. At that meeting, they discussed safety of the intersection of CSAH 33 and 120 Ave. N with the proposed increase of trucks turning eastbound onto 120th Ave. N. There is a no passing zone starting at that avenue for northbound traffic because of a dip in the road. A turn lane was suggested for this intersection to improve safety and eliminate collisions in this area. Further discussion included making the road a 10-ton road, tying in a redesigned township road with the county road, extending the yellow lines, and having a traffic study done.

Hulett noted he believes it is a County issue. County Administrator Brian Berg stated that the condition on the permit says the township needs to be satisfied with the haul route. Berg added that the applicant would have to bear the cost of a traffic study, if needed. Jeff Bates, Goose Prairie Township officer, commented that they also discussed the option of having the gravel operator use 130th Ave. N on the north section line, alleviating the issues with 120th Ave. The township could consider using gravel tax dollars for the improvements. Mary Colson, the nearest resident, added that confining the traffic to 130th Ave. N is a good idea. A letter was also received, and entered into the record, from Donna Jacob and Marinus Otte regarding their specific concerns related to road traffic and safety in conjunction with the Hough gravel mining site.

Discussion on filling vacant Planning Commissioner seat

David Heng just completed his term limit (nine years) on the Planning Commission, leaving a vacant seat to be filled. Letters of interest for the seat were received from Curt Stubstad and Greg Anderson. Anderson is currently serving on the Board of Adjustment and was a past member of the Planning Commission as well. Stubstad was present to meet the Planning Commission and inform them of his interest in serving as well.

On motion to Langseth, seconded by Mongeau, and carried with one nay vote (Mike Hulett), the Commission recommended to the County Board that Curt Stubstad be appointed to fill the vacant seat as a rural representative on the Planning Commission.

Discussion on docks and lifts issue and possible amendment to Development Code

Recently Commissioner Mongeau and the Planning Office received a complaint concerning the placement of docks and lifts on Turtle Lake. Apparently, different parties are placing docks right on their property lines and then extending into the water in front of other properties. The same has occurred with boatlifts being placed in front of other properties. The County Development Code has no regulations as to where docks have to be placed. The individual who alerted the County of the issue suggested the County consider adding language to address it in the Development Code. Minnesota DNR has some language related to this issue, but it is not included in its Shoreland Management regulations that the County has adopted. The Planning Commission would need to initiate an amendment to the Development Code to add language addressing the issue. Sample ordinances pertaining to the issue from Becker and Ottertail Counties were available for review. Samarzja concurred with the suggestion.

On motion by Hulett, seconded by Koczur, and unanimously carried, the Commission

requested that Planning staff draft language to address the dock and lift placement issue as an amendment to the County Development Code and bring it back for a public hearing.

Update on Animal Agriculture Threshold for CUP discussion

On August 11, a subcommittee of the Planning Commission including County Commissioners, staff, and Planning Commissioners met to discuss the animal agriculture threshold for a Conditional Use Permit. The County threshold had been 250 AU. With the adoption of the State AU numbers it would allow much larger animal agriculture facilities to be administratively permitted with no Planning Commission review or public input. The consensus of the group was to lower the threshold for a CUP from 250 AUs to 50 AUs. The Planning Commission would need to initiate an amendment to the Development Code to add language to address this issue.

Proposed 50 AU CUP Threshold Using New County/State AU Numbers

	<u>50 AUs</u>
A. dairy cattle:	
(1) one mature cow (whether milked or dry):	
(a) over 1,000 pounds, 1.4 animal unit; or	35 animals
(b) under 1,000 pounds, 1.0 animal unit;	50 animals
(2) one heifer, 0.7 animal unit; and	71 animals
(3) one calf, 0.2 animal unit;	250 animals
B. beef cattle:	
(1) one slaughter steer or stock cow, 1.0 animal unit;	50 animals
(2) one feeder cattle (stocker or backgrounding) or heifer, 0.7 animal unit;	71 animals
(3) one cow and calf pair, 1.2 animal unit; and	41 animals
(4) one calf, 0.2 animal unit;	250 animals
C. one head of swine:	
(1) over 300 pounds, 0.4 animal unit;	125 animals
(2) between 55 pounds and 300 pounds, 0.3 animal unit; and	166 animals
(3) under 55 pounds, 0.05 animal unit;	1000 animals
D. one horse, 1.0 animal unit;	50 animals
E. one sheep or lamb, 0.1 animal unit;	500 animals
F. chickens:	
(1) one laying hen or broiler, if the facility has a liquid manure system, 0.033 animal unit; or	1515 animals
(2) one chicken if the facility has a dry manure system:	
(a) over five pounds, 0.005 animal unit; or	10000 animals
(b) under five pounds, 0.003 animal unit;	16666 animals
G. one turkey:	
(1) over five pounds, 0.018 animal unit; or	2777 animals
(2) under five pounds, 0.005 animal unit;	10000 animals
H. one duck, 0.01 animal unit; and	5000 animals
I. For animals not listed in items A to H, the number of animal units is the average weight of the animal in pounds divided by 1,000 pounds.	

Current 250 AU CUP Threshold Using New County/State AU Numbers

	<u>250 AUs</u>
A. dairy cattle:	
(1) one mature cow (whether milked or dry):	
(a) over 1,000 pounds, 1.4 animal unit; or	178 animals
(b) under 1,000 pounds, 1.0 animal unit;	250 animals
(2) one heifer, 0.7 animal unit; and	357 animals
(3) one calf, 0.2 animal unit;	1250 animals
B. beef cattle:	
(1) one slaughter steer or stock cow, 1.0 animal unit;	250 animals
(2) one feeder cattle (stocker or backgrounding) or heifer, 0.7 animal unit;	357 animals
(3) one cow and calf pair, 1.2 animal unit; and	208 animals
(4) one calf, 0.2 animal unit;	1250 animals
C. one head of swine:	
(1) over 300 pounds, 0.4 animal unit;	625 animals
(2) between 55 pounds and 300 pounds, 0.3 animal unit; and	833 animals
(3) under 55 pounds, 0.05 animal unit;	5000 animals
D. one horse, 1.0 animal unit;	250 animals
E. one sheep or lamb, 0.1 animal unit;	2500 animals
F. chickens:	
(1) one laying hen or broiler, if the facility has a liquid manure system, 0.033 animal unit; or	7576 animals
(2) one chicken if the facility has a dry manure system:	
(a) over five pounds, 0.005 animal unit; or	50000 animals
(b) under five pounds, 0.003 animal unit;	83333 animals
G. one turkey:	
(1) over five pounds, 0.018 animal unit; or	13888 animals
(2) under five pounds, 0.005 animal unit;	50000 animals
H. one duck, 0.01 animal unit; and	25000 animals
I. For animals not listed in items A to H, the number of animal units is the average weight of the animal in pounds divided by 1,000 pounds.	

On motion by Hulett, seconded by Jensen, and unanimously carried, the Commission asked Planning staff to schedule a public hearing for the proposed language amendment to the County Development Code for Animal Units (AUs).

Update on Urban Expansion District discussion between City of Moorhead and Clay County

Magnusson stated that on August 9th a subcommittee of County and City staff, along with elected officials, met to discuss the County’s Urban Expansion (UED) zoning overlay district. The conversation was a result of the recent interest in removing the overlay district from a couple small properties. At that meeting, staff was directed to come up with a timeline for review and revision of the UED to better reflect the future needs of the City of Moorhead and Clay County. The City of Moorhead planning staff and engineer have proposed such a timeline and discussed

it at the County Board meeting this morning. Planning Commissioners asked for points of clarification on the issue.

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

Thomas Jensen, Planning Commission Secretary