

MINUTES
CLAY COUNTY PLANNING COMMISSION
7:00 P.M., TUESDAY, FEBRUARY 27, 2018
MEETING ROOM B - THIRD FLOOR COURTHOUSE

Members Present: Mark Klevgaard, Tom Jensen, Jenny Mongeau, Bill Davis, Randy Schellack, Andrea Koczur, Tim Brendemuhl, Curt Stubstad, Joel Paulsen, Amos Baer, Dan Langseth.

Members Absent: None.

Others Present: Tim Magnusson, Lynne Spaeth, Jenny Samarzja, Kristopher Knutson, Jeff Rehder, David Sogn, Carolyn Juell, Jerry Wyatt, Wayne Lepper, George Peters, Lyle Ranstrom, John Boulger, Darrell Havercamp.

APPROVAL OF AGENDA

On motion by Andrea Koczur, seconded by Joel Paulsen, and unanimously carried, the Planning Commission approved the Agenda.

APPROVAL OF MINUTES

On motion by Randy Schellack, seconded by Bill Davis, and unanimously carried, the Planning Commission approved the January 23, 2018 minutes as presented.

CITIZENS TO BE HEARD: There were no citizens to be heard.

MATT SANDBECK – CONDITIONAL USE REQUEST FOR STORAGE BUILDINGS

The applicant is seeking approval of a Conditional Use Permit to allow the establishment of general storage buildings on a 17.64-acre parcel located in the NE corner of the NE Quarter of Section 30, T139, R47 (Glyndon Twp.), in the Limited Highway Commercial (LHC) zoning district.

MATT SANDBECK – CONDITIONAL USE REQUEST FOR AUTO REPAIR SHOP

The applicant is seeking approval of a Conditional Use Permit to allow the establishment of a general automotive repair shop on a 17.64-acre parcel located in the NE corner of the NE Quarter of Section 30, T139, R47 (Glyndon Twp.), in the Limited Highway Commercial (LHC) zoning district.

On motion by Tom Jensen, seconded by Joel Paulsen, and unanimously carried, the Planning Commission opened both Matt Sandbeck public hearings.

Tim Magnusson, Planning Director, presented photographs of the property and surrounding locations. There are four residences within one-half mile of the proposed facility. Two are located to the north, one to the south on adjacent property, and one to the southeast.

The applicant has submitted two applications. One for a general u-store storage facility and one for an auto repair facility. Sandbeck plans to purchase the property and establish a drag strip at a later date. Magnusson showed a timeline submitted by the applicant as well as plans for the storage buildings. The access would be off 40th Avenue South and may require an access permit from the County Highway Department.

The applicant would construct a maximum of four storage buildings, each approximately 400' x 60' in size, in two phases. No other commercial use would be allowed other than the repair shop. The proposed days and hours of operation would be 24 hours a day, Monday thru Friday for the storage buildings, and 9:00 AM to 6:00 PM, Monday thru Friday for the auto repair shop.

The site would have security lighting and cameras and would have fencing between it and the property to the south.

The applicant would need to work with Clay County Environmental Services to ensure that all sanitary sewer and floor drains are designed and constructed in accordance with governing regulations. The auto repair shop would require a holding tank due to drains.

Magnusson summarized that in 2005, the Ordinance was amended to remove the Wellhead Protection Overlay from this property, leaving it Limited Highway Commercial zoning which permits both uses.

The applicant, Matt Sandbeck was present. Sandbeck stated he would need storage for the vehicles and intends to use a portion of the buildings for said storage. Moreover, he advised the floor will be concrete with floor drains in several units. Each unit would provide a water source and a restroom and would be heated with propane. Hours of operation were discussed and the conditions will reflect the hours of 7:00 AM to 6:00 PM. Sandbeck has operated his business in West Fargo for five years, but now wishes to relocate to Clay County.

The Chair asked if anyone wanted to speak in favor of the proposal.

The Chair asked if anyone wanted to speak against the proposal.

Kristopher Knutson, Water Division Manager for Moorhead Public Service, approached. He gave a general background of the proposed site. The Buffalo Aquifer is the drought resource for Moorhead. The Moorhead Municipal Airport, to the North, poses his concern relating to the large amount of sanitary waste produced and the lack of protection for the Buffalo Aquifer. Knutson stressed that regardless of the Wellhead Protection Overlay being removed, the Buffalo Aquifer still exists. He implored that prior to 2005, this application would have been denied. Knutson addressed the Findings of Fact and stated that in his opinion, numbers 1, 5, 6 and 9 present issues.

Magnusson informed Knutson that the reason for the removal of the overlay was to provide potential for more economic development. The Commission discussed the drainfield as opposed to a holding tank. When asked, Knutson said he concurred with the use of a holding tank.

Attorney John Boulger, Wold Johnson, PC, addressed the Commission. He represents Moorhead Public Service. Boulger voiced his concern regarding the outdoor storage of vehicles. He deems the protection to the Aquifer would be compromised should chemicals or petroleum seep from the vehicles and filtrate into the Aquifer.

Magnusson interjected that a Stormwater Protection Plan would need to be obtained and meet MPCA requirements.

In conclusion, Magnusson advised the Commission that their decision could be to either approve two buildings now and the remaining two buildings when applied for, or they could approve all four buildings at one time.

On motion by Tim Brendemuhl, seconded by Andrea Koczur, and unanimously carried, the Planning Commission closed both Sandbeck public hearings.

The Findings of Fact for Conditional Use Permits were discussed and the Planning Commission found the following items to be applicable with this storage building proposal:

- 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.
- 6. Burden on Public Services:** The use will not create an excessive burden on parks, schools, streets, water supply, sanitary sewers and storm sewers and other public facilities or utilities which serve or are proposed to serve the area.

The Findings of Fact for Conditional Use Permits were discussed and the Planning Commission found the following items to be applicable with this auto repair shop proposal:

- 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.
- 6. Burden on Public Services:** The use will not create an excessive burden on parks, schools, streets, water supply, sanitary sewers and storm sewers and other public facilities or utilities which serve or are proposed to serve the area.

On motion by Jenny Mongeau, and seconded by Tim Brendemuhl, and unanimously carried, the Planning Commission approved Matt Sandbeck's application for Conditional Use Permit to allow the establishment of four (4) general storage buildings on a 17.64-acre

parcel located in the NE corner of the NE Quarter of Section 30, T139, R47 (Glyndon Twp.), with the following conditions at minimum:

- 1) Applicant shall obtain all applicable local/State/Federal permits/reviews (ie. Septic system, Storm Water Pollution Protection Plan (MPCA), WCA review, etc.) before any construction and shall provide copies to Planning Office;
- 2) Facility signage shall meet HC or LHC sign standards (maximum of 128 sq. ft. per sign face (max of 2 faces), or 5% of the wall area on which sign is located) and any other applicable County sign standards;
- 3) The facility shall meet all applicable setback requirements as per the County Development Code;
- 4) Outdoor storage shall not be allowed anywhere on the property;
- 5) Days and hours of operation shall be Monday-Friday 7 a.m. to 6 p.m.;
- 6) Appropriate security lighting shall be installed;
- 7) Ingress/Egress shall be off 40th Ave. S. and in accordance with the Clay County Access Management Plan;
- 8) Units shall be used for private storage only. No business or commercial enterprise shall be conducted out of a storage unit or units with one exception. The applicant may use a unit or units for the operation of a commercial auto repair shop. Said shop must receive a Conditional Use Permit from the Planning Commission prior to commencing operation; and,
- 9) No more than ten (10) vehicles at one time may be stored outside of the buildings.

On motion by Dan Langseth, and seconded by Randy Schellack, and unanimously carried, the Planning Commission approved Matt Sandbeck's application for Conditional Use Permit to allow the establishment of a general automotive repair shop on a 17.64-acre parcel located in the NE corner of the NE Quarter of Section 30, T139, R47 (Glyndon Twp.), with the following conditions at minimum:

- 1) Applicant shall obtain all applicable local/State/Federal permits/reviews (ie. Septic system, Storm Water Pollution Protection Plan (MPCA), WCA review, etc.) before any construction and shall provide copies to Planning Office;
- 2) Facility signage shall meet HC or LHC sign standards (maximum of 128 sq. ft. per sign face (max of 2 faces), or 5% of the wall area on which sign is located) and any other applicable County sign standards;
- 3) The facility shall meet all applicable setback requirements as per the County Development Code;
- 4) Outdoor storage shall not be allowed anywhere on the property;
- 5) Days and hours of operation shall be Monday-Friday from 9am -6pm;
- 6) Appropriate security lighting shall be installed;
- 7) Ingress/Egress shall be off 40th Ave. S. and in accordance with the Clay County Access Management Plan;
- 8) Any septic system or floor drains associated with the use must meet all requirements of the Clay County Environmental Services; and,
- 9) No more than ten (10) vehicles at one time may be stored outside of the auto repair shop.

SUMMIT SAND AND GRAVEL INC. – 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 in the West Half of Section 7, Township 140N, Range 44W (Highland Grove Twp.) and is in the Agricultural General (AG) zoning district and Shoreland-Special Protection (S-SP) zoning district.

Commissioner Jenny Mongeau recused herself from the hearing due to personal reasons.

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

Tim Magnusson, Planning Director presented photos of the proposed pit and surrounding property, including residences along the haul road. The entire parcel consists of 283 acres, but the proposal is only for 39-acres. The property is zoned Agriculture General (AG) and Shoreland-Special Protection (S-SP); therefore, there will need to be a 1000-foot setback from Solwald Lake. The mining would occur on the flatter land.

Mining would be performed in two phases over approximately 7-10 years. The mining lease expires on December 31, 2022. The County does not permit past a lease termination date. Initially, the plan is to strip enough material for 1-2 years of operation. All erosion will be contained within the pit. Interim reclamation methods will be used upon site inactivity, wherein banks will be sloped back and weeds will be controlled on stockpiled topsoil. After the completion of mining, the disturbed areas would be left in a condition to be farmed upon reclamation.

Stormwater would be contained on the property as an unmined ridge would be left on all sides of the mined property.

The proposed transport route is to travel North onto 80th Ave. N., then West to 240th St., then North to Clay County 26 and West to State Highway 9, then South to State Highway 10.

The requested days of operation are Monday thru Saturday, and Magnusson suggests hours of 6:00 AM to 8:00 PM. The property to the north is permitted as an event center and most of their business occurs Friday thru Sunday. Therefore, consideration should be given to hours of mining operation to assure no noise interference during those events.

The applicant, Dave Sogn, was present for questions. Sogn is the operations manager for Summit Sand & Gravel, Inc., who is now in partnership with Strata Corporation. Jeff Rehder, the owner of Summit Sand & Gravel, Inc., was also present. Sogn assured the Commission that silt fences would be used to maintain erosion and the wetland would not be contaminated.

The applicant is willing to repair the road, set speed limits for trucks and provide dust control. Stockpiling would occur but the land would be reclaimed and left as farmable. Additionally, Sogn stated no mining would occur in the water table. They are only mining 39-acres because they drilled and didn't find anymore.

The Chair asked if anyone wanted to speak for the proposal.

The Chair asked if anyone wanted to speak against the proposal.

Wayne Lepper, the Chairman of Highland Grove Township, addressed the commission. He is personal friends with the Jetvigs, who own the land. He has no qualms about them selling property for gravel, however he stated some people he had visited with were not in favor of the proposal. Lepper's concern is that the roads will not withstand the heavy use of gravel hauling. The township has limits on road use.

George Peters, Supervisor of Cromwell Township, approached. He is also concerned about the road and the wetlands being ruined. If the road was left in its original state, he is less concerned.

Carolyn Juell resides on the corner. One of her concerns is public safety. She asserts the road north is hilly and narrow and encountering a large truck would cause trouble. The road dips in the springtime when wet and there is a steep downward hill. Juell does not feel it is conducive for gravel trucks. She added concerns about noise 13-14 hours a day, the dust and the air quality.

Darrell Havercamp posed questions about the setbacks from a building. Magnusson informed him the setback was 500-yards from a property boundary line.

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

The Findings of Fact for Interim Use Permits were discussed and the Planning Commission found the following items to be applicable with this proposal:

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.
3. **Development of Surrounding Property:** The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
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.
6. **Burden on Public Services:** The use will not create an excessive burden on parks, schools, streets, water supply, sanitary sewers and storm sewers and other public facilities or utilities which serve or are proposed to serve the area.
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.

13. **Existing Businesses:** Existing businesses nearby will not be adversely affected because of curtailment of customer trade brought about by intrusion of noise, glare or general unsightliness.

On motion by Curt Stubstad, and seconded by Randy Schellack, with 7 to 2 (Koczur and Davis) voting, the Planning Commission approved Summit Sand and Gravel's application for Interim Use Permit for the development of a new 39-acre aggregate mining operation, located in the West Half of Section 7, Township 140N, Range 44W (Highland Grove Twp.), with the following conditions at minimum:

1. **Permit shall terminate on December 31, 2022;**
2. **Facility shall operate within provisions of the Clay County Land Development Ordinance;**
3. **Operator shall control dust and provide necessary maintenance on all gravel haul roads;**
4. **Operator shall provide proof of NPDES/SDS, Storm Water Management, and Air Quality Permits, as required, to the Planning Office and shall comply with all local/state/federal regulating agencies prior to commencing mining operations;**
5. **Operations must comply with all provisions of Wetlands Conservation Act;**
6. **Propose a maximum of 39 acres be approved for mining operations (excavation, screening, crushing, stockpiling, etc.). No additional acres will be permitted unless an Environmental Assessment Worksheet (EAW) is conducted for the property prior to this permit being issued;**
7. **Applicant shall post a reclamation bond of \$1,000 per acre;**
8. **Applicant shall reclaim mined out areas as mining activities progress. Areas shall be seeded;**
9. **Facility may operate March thru December, Monday thru Friday, starting at 7:00 AM until 9:00 PM. If the need arises to operate 24 hours a day, the operator must contact the Planning Director in advance with the details of the anticipated time-frame for the extended mining hours to obtain approval. Said approval will be reviewed at the next Planning Commission meeting;**
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 shall 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 stormwater management plan prior to commencing any operations at the site;**
12. **All mining operations shall take place outside of the 1,000-foot Shoreland Zoning of Solwald Lake;**

OTHER BUSINESS:

Ordinance Amendment

ADD THE FOLLOWING TO THE USE TABLE:

USE TYPE

Storage/stockpiling of extracted materials including sand, gravel, clay, dirt, and any other extracted materials.

ALLOW USE IN

RP-Whp, RP-Bio, RP-Agg, AG, ASC, UED T2, HC and LHC zoning districts as an Interim Use

Concrete and/or asphalt storage and crushing (recycling) would need to be permitted separately, as an Interim Use, under the existing Use Type:

“Temporary tire and/or waste collection and/or recycling operations”

Individual standards for these Interim Uses would be determined during public hearings. Such standards could include but not be limited to:

- 1) Setbacks
- 2) Hours of operation
- 3) Access
- 4) Screening
- 5) Dust control
- 6) Noise

On motion by Curt Stubstad, seconded by Andrea Koczur, and unanimously carried, the Planning Commission recommended the ordinance amendment to the County Commission for final approval.

ADJOURN:

On motion by Randy Schellack, and seconded by Joel Paulsen, the meeting adjourned at 9:45 p.m.

Mark Klevgaard, Planning Commission Secretary