

**MINUTES
CLAY COUNTY PLANNING COMMISSION
7:00 TUESDAY, JUNE 23, 2020
MEETING ROOM B - THIRD FLOOR COURTHOUSE**

Members Present: Andrea Koczur, Steve Mortensen, Laura Johnson, Mark Klevgaard, Ezra Baer, Jenny Mongeau, Bill Davis, Steve Lindaas, Curt Stubstad

Members Absent: Randy Schellack, Tim Brendemuhl

Others Present: Matt Jacobson, Emma Notermann, Katie Stock, Tony Weigel, Rita Rueckert, Cornelius Wipf, Ryan Aasheim, Tami Norgard – Vogel Law Firm, Duane Walker

ROLL CALL:

Roll call was taken by Chair William Davis and has been recorded. The meeting was called to order at 7:05 PM. Director Matt Jacobson went over the rules and helpful tips for participation in this virtual meeting.

APPROVAL OF AGENDA:

On motion by Jenny Mongeau, seconded by Steve Lindaas, and unanimously carried, the Planning Commission approved the Agenda.

APPROVAL OF MINUTES FROM MAY 19, 2020 MEETING:

On motion by Steve Lindaas, seconded by Laura Johnson, and unanimously carried, the Planning Commission approved the May 19, 2020 Minutes as presented.

CITIZENS TO BE HEARD: There were no citizens present to speak on any matters not on the agenda.

PUBLIC HEARINGS:

DUANE WALKER – REQUEST FOR CONDITIONAL USE

The applicant is seeking approval of a conditional use permit to allow for commercial seasonal storage buildings in Section 29 and Section 32, Township 138N, Range 48W, parcels 19.029.3000 and 19.032.2801 in Kurtz Township.

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

Matt Jacobson, Planning and Zoning Director, states Applicant is seeking Conditional Use Permit to conduct a seasonal storage business. The subject property is zoned Agricultural General and this use would be allowed within that zoning district. The Applicant has 2 separate parcels, one located on the north side of County 8 and the other on the south side of County 8, which would both contain buildings to be used for this business. The one parcel has approximately 9500 sq. ft storage building which was permitted in 2018 and the parcel on the south contains buildings that would also be used for storage as well as the Applicant's residence. The Applicant is only offering storage indoors and there are is no outdoor storage. Business is operating as FM

Seasonal Storage. The County Highway Department has no problem with this request. Director Jacobson recommends approval with the following conditions:

- 1) Units shall be used for private storage only. No business or commercial enterprise shall be conducted out of a storage unit or units.
- 2) Applicant may have one sign for both parcels not to exceed 32 square feet and 12 feet height. The sign must be outside the County Road right of way.
- 3) Any other conditions that the Planning Commission deems necessary.

Bill Davis asked if the seasonal storage could be limited to the non-tillable acreage. Matt Jacobson indicated that that would be something that could be addressed with conditions.

Jenny Mongeau asked if this is a request for establishing a new business. Jacobson indicated that this is an existing business with the intention of this hearing to bring the Applicant into compliance.

Duane Walker advised that he didn't feel the building was showing on the map as being in the exact spot where it is but does not feel that it makes a difference.

Jenny Mongeau stated that the area is orderly and clean with adequate access and she could not see any problems with the request. Curt Stubstad advised he also went past the property in question and saw no problems with the request.

On motion by Ezra Baer, seconded by Steve Mortensen, and unanimously carried, the Planning Commission closed the public hearing.

Jenny Mongeau asked Applicant if he had any problem with a condition imposed to only allow non-tillable acreage which is approximately 7 acres and Applicant advised they would be in agreement.

The Findings of Fact and Order were again addressed by the Planning Commissioners as they pertain to the requested permit. There were no items that required additional discussion or conditions.

On motion by Steve Lindaas, seconded by Andrea Koczur, the Planning Commission approved the Conditional Use Permit for a seasonal storage business with the following conditions:

- 1) **Units shall be used for private storage only. No business or commercial enterprise shall be conducted out of a storage unit or units;**
- 2) **Applicant may have one sign for both parcels not to exceed 32 square feet and 12 feet height. The sign must be outside the County Road right of way; and**
- 3) **Any other conditions that the Planning Commission deems necessary.**
- 4) **Business at NW1/4 SW1/4; E1/2 SW1/4 Section 29, Twp. 138N, R 48W (Kurtz Twp.) Parcel: 19.029.3000 to only occur on non-tillable acreage on the south portion of the parcel along Co. Hwy. 8 (110th Ave S).**

SPRING PRAIRIE HUTTERIAN BRETHERN INC – REQUEST FOR CONDITIONAL USE

The applicant is seeking approval of a Conditional Use Permit for an existing precast concrete facility in Section 13 and Section 14, Township 140N, Range 46W, parcels 27.013.0200 and 27.014.1700 in Spring Prairie Township.

On motion by Ezra Baer, seconded by Steve Lindaas, and unanimously carried, the Planning Commission opened the public hearing.

Matt Jacobson, Planning and Zoning Director, states the Applicant is seeking a Conditional Use Permit of an existing precast concrete manufacturing facility in Spring Prairie Township.

Current land use is agricultural, residential, industrial. Director Jacobson reviewed pertinent items from the 2002 Comprehensive Plan and relative Land Use Goals. The subject property is zoned Agricultural General and this requested use is allowed with a Conditional Use Permit within this zoning district. The parcels are all of Section 14 on the west side of 170th Street North and the west half of Section 13 on the east side of 170th Street North.

This facility has grown from July 2005 to the present. Applicant recently went before the Planning Commission and the Board of Commissioners for a text amendment to the Clay County Development Code to add precast concrete manufacturing to the Agricultural General, Agricultural Service Center and Highway Commercial zoning districts. This request is to get the facility in compliance so the next step can be to request an addition to the facility.

The current facility consists of 94,800 feet for the pre-cast concrete facility, approximately 12 acres of lay-down yards for temporary storage of the products and a 6-acre truck-fueling station. This request is for a 13,000 sq. ft addition to the existing building.

Applicant has worked with Planning and Zoning to temporarily move some of their activity to another area on their land to keep their staff, the Colony and the general public safe during the Covid-19 pandemic. Applicant has been responsive for concerns regarding haul route issues, reduced night lighting, less noise, and stop signs to mitigate traffic and safety issues, as well as being responsive to neighborhood concerns. There are still some issues with dust control and noise from back-up beepers on trucks and other equipment.

Director Jacobson wanted to clarify that rather than stating noncompliance of stormwater measures, he should state that there are currently no permits for industrial stormwater or construction stormwater permits for the current operation. Usually a stormwater permit would be required if more than an acre of ground is disturbed or altered in any way. Applicant has taken steps to correct drainage ditch issues in the area. They are on track for a groundwater appropriations permit from the DNR for the requested facility and Colony site.

The Clay County Development Code was reviewed relative to the approved text amendment from May 2020. The following standards for commercial and industrial uses were discussed:

8-6-10: Standards for all Commercial and Industrial Uses:

B. Environmental Mitigation: Proposed commercial and industrial uses shall avoid environmentally sensitive areas and ensure mitigation measures are taken whenever there is a potential adverse impact.

Precast Facility (Ordinance 2020-1):

Setbacks: 1000 feet from a residential structure located on an adjacent property.

Laydown yards and Truck Parking:

8-6-29: STANDARDS FOR STORAGE YARDS FOR EQUIPMENT, MACHINERY, OR MATERIALS ACCESSORY TO COMMERCIAL USES

A. Accessory Only: Outside storage of equipment, machinery or materials shall not be a principal use and shall be accessory only to allowed commercial uses.

B. Maximum Area: Outside storage of equipment, machinery or materials shall occupy no more than

ten percent (10%) of the lot area or ten-thousand (10,000) square feet, whichever is greater.

C. Not in Setback: Outside storage of equipment, machinery or materials within any structure setback area shall be prohibited.

D. Screening: Outside storage of equipment, machinery or materials shall be screened so as not to be visible from any residence on adjacent properties.

Director Jacobson's recommendation is to approve the CUP request with the following 9 conditions as set out in the Staff Report:

1. Operate within provisions of the Clay county Land Development Ordinance;
2. Provide proof of Natural Point Discharge Elimination System/Stormwater Discharge System (NPDES/SDS), Storm Water Management, and Air Quality Permits, as required, to the Planning Office;
3. Provide proof of Spring Prairie Township and Buffalo-Red River Watershed District permits, as required to the Planning Office;
4. Control dust and provide necessary maintenance on haul roads, including the haul road that runs north to County Road 26;
5. Screen laydown yards with fencing or vegetation;
6. Reduce amount of ambient lighting from the site;
7. Reduce amount of noise through use of white-noise alarms on vehicles and/or other noise reduction measures (without compromising OSHA standards);
8. Hours of operation as determined by the Planning Commission; and
9. Any other conditions the Planning Commission deems necessary.

A site map was reviewed showing the activities and uses contained on the Applicant's land.

Matt Jacobson states he did receive a couple comments from the public regarding this request. One of the comments was sent and was asked that the written statement be shared. Matt Jacobson read a letter from Mr. James Grier in support of the Spring Prairie Hutterian & Brethren request. Mr. Grier also states that several issues regarding noise, light and traffic have been greatly reduced in this area. The issue of the dust control does remain a problem. He also requests that future development be directed to the west and south.

Tami Norgard from the Vogel Law Firm represented Cornelius Wipf. She states that the Colony started doing precast concrete for their own use. Local business and individuals started noticing the quality of their product and began requesting work to be done. As such, the production experienced unanticipated growth. In 2016 the Colony stopped their hog and turkey operations and began focusing their efforts on precast concrete as well as a dairy operation. One of their current precast concrete projects is the Kilbourne parking ramp in downtown Fargo. They currently have 152 employees. They were recently selected exclusively by a Seattle-based company for wind turbine foundation construction activity. She invited anyone interested to visit the facility to see how clean and well maintained it is. Tami Norgard spoke about the economic impact for the area regarding use of local resources and growing local jobs.

Norgard states that the plan is to come back in a few months to request a new Conditional Use Permit to build a bigger facility with 500 employees. After that move, product existing outside onsite will be greatly reduced and more items will be placed inside. It is anticipated that it will be up to 3 years before they will be up and running in a new facility.

Haul road information was reviewed as well as discussion regarding the existing business currently using this haul road. Tami Norgard emphasized the cooperation put forth by Spring Prairie HB once any issues have been brought to their attention. For example, on Friday they received notice regarding stormwater and the erosion of the ditch and by Friday afternoon they installed a silt fence and seeded the ditch. On Saturday they received a visit from a representative of the MPCA and they inspected the ditch and stated it all looked good. At that time Mr. Wipf talked with the MPCA representative regarding stormwater permitting. Ms. Norgard talked about a 24-hour operation and Mr. Wipf advised that this is not a 24-hour facility. They have been using

the haul road during road restrictions. Dust control was recently administered to most of their area roads; the county will be re-graveling the remaining roadway and after that they will administer dust control to that roadway.

Ryan Aasheim with the Greater Fargo-Moorhead Economic Development Corporation spoke regarding the anticipated growth of Spring Prairie. He stressed the economic factor of the precast facility and its future revenue. He pointed out that the jobs created will be in the \$21-\$25 per hour rate. This facility will be a wealth generator for the area and the County.

Jenny Mongeau asked if there has been any anticipation of reducing the speed limit on the haul road. Matt Jacobson indicated he had not discussed speed but can check with the Highway Department as well as with the township. Director Jacobson indicated that 170th is a Township roadway. Cornelius Wipf advised that the Spring Prairie Colony would also appreciate reduced speed on that haul roadway. Matt Jacobson advised that he was aware that the Sheriff's office has been in that area observing traffic speeds and road conditions.

Steve Lindaas expressed appreciation of Tami Norgard's in-depth presentation regarding the efforts of the Colony trying to be good neighbors.

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

The Findings of Fact and Order were again addressed by the Planning Commissioners as they pertain to the requested permit. All items can be addressed through Conditions.

Jenny Mongeau expressed her appreciation for the responsive actions the Colony has taken. She also is cognizant of the neighbors' issues and concerns and wants to be sure they continue to be heard.

Ezra asked Director Jacobson if the Applicant is aware of the Conditions requested to be applied to the Permit. Matt Jacobson stated this could be addressed through conditions for activities occurring during certain hours or indoors only. He compared the conditions to be like the ones applied for a gravel pit and recommended to change the wording "reduced" to "limit". He feels it would also be unreasonable to require a 12' fence around the site for screening. Cornelius Wipf stated that there were intentions of planting trees to help with screening. Tami Norgard states that the Ordinance states the need to have screening from residences. Matt Jacobson discussed buffering.

On motion by Ezra Baer, seconded by Mark Klevgaard, and unanimously approved, the Planning Commission *GRANTED* the Conditional Use Permit for a pre-cast concrete plant and applying the Conditions 1-4, 6, 7 and 9, and change the word to "reduce" to "limit" on Conditions #6 and 7.

UNFINISHED BUSINESS:

None

NEW BUSINESS:

Director Matt Jacobson – Zoning Violations & Enforcement: Matt Jacobson updated the Planning Commission regarding zoning violations and enforcements within the County. He first discussed the Brent Peterson RV Park/Campground in Moorhead Township. Mr. Peterson has taken steps to comply and has drastically reduced the number of units out on his property. He currently has no occupied units with people

staying on site. He has indicated he will occasionally work on someone's car or RV. Mr. Peterson has been advised he could apply for a Home Occupation Permit to hold regular business like this.

Director Jacobson has been in contact with Barnesville regarding a trucking type business that is located on Highway 52 near the edge of Barnesville. The owner has a CUP for this business. One of his condition is that he is allowed 10 vehicles stored outside on the property. Barnesville has advised that he has had more than 10 vehicles. Jacobson has been in contact with him and he has been amiable to work with. He is looking to amend his CUP and that may be a request at a Planning Commission hearing in the near future. This property is located right next to the Barnesville airport.

Matt Jacobson has received a couple calls from a landowner near the Moorhead Airport between the drag strip and the airport. They purchased this property in 2015 aware of their area activities. In 2018 the drag strip installed a drifting track on the property. This drifting track is right next to the drag strip and they received 2 Conditional Use Permits for storage as well as a repair shop. The drag strip was permitted in 2003 and there is a camping facility with showers, etc. The zoning map was amended to include a new overlay of Resource Protection - Wellhead Protection area. This use is not allowable in the Wellhead Protection area. This drifting track should have been permitted through a Building Permit as well as an amended Conditional Use Permit. Matt Jacobson shared a video submitted by a residential homeowner in the area of the drifting track highlighting the noise and smoke. They are fine with the drag strip activity and the airport activity. This drifting activity occurs almost every Saturday for the majority of the day. Matt Jacobson acknowledged the popularity of the events at the drag strip and drifting track, but he recommends they amend their CUP for this activity and limiting the hours. He also recommends that they petition to remove the wellhead protection overlay so they would be able to amend their CUP.

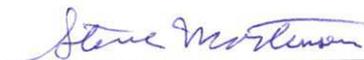
The hours of the drag strip were questioned, and Matt believed it was late Friday, all day Saturday, and part of Sunday. Andrea Koczur believes that the drifting hours would be probably be the same as the drag strip hours and amending their CUP would not alleviate the neighbors' concern. Ezra Baer recommended some type of fencing may help reduce noise. Bill Davis agreed there should be a sound fence. Mark Klevgaard asked if that entire drifting roadway is all concrete. Matt Jacobson confirmed that it was all concrete. He also suggested that maybe limiting events and hours of events may help, similar to what was done at Buffalo River Speedway. Steve Lindaas advised that there are noise limitations that could be used but was concerned about storm water issues with the amount of concrete placed on the property. Matt Jacobson advised they would need to get a construction stormwater permit from the Minnesota Pollution Control Agency (MPCA) if they disturb more than 1 acre of ground. He would need to check with the property owner and the Pollution Control Agency.

Matt Jacobson states that the wellhead protection was put on after the CUP was granted, which makes their drag strip a legal non-conforming use and our Ordinance prohibits the expansion of a non-conforming use. They would need to petition to remove the wellhead protection and then apply for a CUP for the drift track. Several of the other properties in that same area are not within the wellhead protection area.

Katie Stock was introduced as she will be taking over the duties of real property and County issues formerly handled by Tony Weigel from the County Attorney's Office. Tony Weigel will be taking over other duties within the County Attorney Office.

ADJOURNMENT:

On motion by Steve Mortensen, seconded by Curt Stubstad, and unanimously approved, the meeting adjourned at 8:51 PM.



Steve Mortensen, Planning Commission Secretary