

MINUTES

Mountrail County Planning & Zoning Commission

January 28, 2019

Mountrail County South Complex 8103 61st St NW Stanley, ND 58784

*Chairman Sorenson called the meeting to order at 10:00 a.m.
Meeting delayed due to weather*

In Attendance

Board members present: Charlie Sorenson, Gary (Fritz) Weisenberger, Arlo Borud, Linda Wienbar, Trudy Ruland and Joan Hollekim.

Also present: Jana Hennessy, Road & Bridge Engineer, Lori Hanson, Mountrail County Tax Director, Teresa Captain, Mountrail County Deputy Tax Director, Stephanie Pappa, Mountrail County Auditor and Liz Hollowell, Planning & Zoning Administrative Assistant.

Public attending: Ron Schenk, with Schenk LLC, Landon Eskew with Highline Water LLC, Dan and Gary Krieger, Jerry Shaw with Northwest Water Transfer, LLC, Mike Hess and Scott Lawson.

Absent: Bill Klug, Tom Bieri, Roger Hovda, Wade Enget, Mountrail County States Attorney and Heather Greenlee, Mountrail County Deputy Auditor.

Approval of Agenda

Chairman Sorenson requested a motion to review and approve the meeting agenda.

Liz Hollowell with Planning & Zoning stated the Planning & Zoning meeting will not be moving to the Courthouse in February as listed on the agenda. That move will take place in March. Commissioner Borud moved to accept the agenda as changed. Commissioner Hollekim seconded. Upon roll call, all present voted yes. Motion carried.

Mountrail County Planning & Zoning Elections

Chairman Sorenson announced the reorganization of the Planning & Zoning Board.

First item on the agenda was the election of the Chairman. Commissioner Hollekim nominated Charlie Sorenson for Chairman. Commissioner Ruland seconded. Moved by Commissioner Weisenberger to close nominations and cast a unanimous

ballot for Charlie Sorenson as Chairman, seconded by Commissioner Borud. Commissioners Borud, Weisenberger, Wienbar, Hollekim and Ruland voted yes. Motion carried.

Chairman Sorenson called for nominations for Vice Chairman. Moved by Commissioner Borud to close nominations and to cast a unanimous ballot for Gary (Fritz) Weisenberger as Vice Chairman, seconded by Commissioner Hollekim. Commissioners Borud, Sorenson, Wienbar, Hollekim and Ruland voted yes. Motion carried.

Chairman Sorenson called for nominations for Secretary. It was moved by Commissioner Hollekim to close nominations and to cast a unanimous ballot for the Planning & Zoning Department as Secretary, seconded by Commissioner Ruland. Upon roll call, all present voted yes. Motion carried.

8:30 Public Hearing Outlot Plat Review Caldis, Tingum & Tingum LTD
Michael Jacobs & Suezette Bieri

Applicant: Caldis, Tingum & Tingum, LTD with concurrence from Michael J Jacobs & Suezette Bieri, landowners

Location: 69.92 acre, more or less, plat to be known as Outlot 1 of the W¹/₂SE¹/₄ of Section 22, Township 156 North, Range 89 West (**McGahan Township**).

Number of certified mailing receipts provided: 3

Purpose: Create an outlot.

Present: Mr. Kirk Tingum with Caldis, Tingum & Tingum, LTD was present via the phone.

Discussion: Mr. Tingum stated the final plats are on the way. Commissioner Hollekim asked why this parcel was being put in an outlot when it can be easily describe as is. Commissioner Hollekim stated this requirement should be looked into. Lori Hanson, Mountrail County Tax Director stated the Plat Review Board receives the plats after they are done and plats are created by order of the Auditor. Chairman Sorenson asked the Auditor about the criteria that is followed when requiring an outlot. Stephanie Pappa, Mountrail County Auditor stated outlots are required when the parcel is using metes and bounds as its legal description. Chairman Sorenson stated usually outlots are required when a parcel cannot be described easily. For instance, when a diagonal line is being used. Commissioner Hollekim voiced concern about land description getting distorted if all the quarters of land are put into outlots. Mr. Tingum stated they tried to record the deeds and was told by the recorder's office that the parcels were irregular and had to be

surveyed to be made into outlots. Chairman Sorenson stated next time this comes up, Planning & Zoning can bring it up with Wade Enget, Mountrail County States Attorney and the Recorders office before its surveyed. Lori Hanson, Mountrail County Tax Director stated the requirement of an outlot would have come from the Auditor. Commissioner Hollekim stated the requirement of outlots needs to be addressed so they are not done unnecessarily. Stephanie Pappa, Mountrail County Auditor and Liz Hollowell, Planning & Zoning Administrative Assistant will work together to develop a clear written policy of the outlot requirement.

Outcome: Approved with contingencies.

Motion: Moved by Commissioner Borud, seconded by Commissioner Ruland to approve the Outlot review request filed by Caldis, Tingum & Tingum, LTD with concurrence from Michael J Jacobs & Suezette Bieri, landowners, for a 69.92 acre, more or less, plat to be known as Outlot 1 of the W½SE¼ of Section 22, Township 156 North, Range 89 West (**McGahan Township**) contingent on landowners signing the application and the plat as Caldis, Tingum & Tingum, LTD have met all the criteria as set forth in the *Mountrail County Subdivision Resolution* and is further contingent upon Caldis, Tingum & Tingum, LTD complying with all other regulations as set forth in the Mountrail County Zoning Ordinances. Upon roll call, all present voted yes. Motion carried.

8:33 Public Hearing Outlot Plat Review Caldis, Tingum & Tingum LTD
Michael Jacobs & Suezette Bieri

Applicant: Caldis, Tingum & Tingum, LTD with concurrence from Michael J Jacobs & Suezette Bieri, landowners

Location: 92.47 acre, more or less, plat to be known as Outlot 2 of the NE¼ of Section 26, Township 156 North, Range 89 West (**McGahan Township**).

Number of certified mailing receipts provided: 3

Purpose: Create an outlot.

Present: Mr. Kirk Tingum with Caldis, Tingum & Tingum, LTD was present via the phone.

Discussion: Liz Hollowell, Planning & Zoning Administrative Assistant stated this plat was irregular and the final is also on it way.

Outcome: Approved with contingencies.

Motion: Moved by Commissioner Hollekim, seconded by Commissioner Wienbar to approve the Outlot review request filed by Caldis, Tingum & Tingum, LTD with

concurrence from Michael J Jacobs & Suezette Bieri, landowners, for a 92.47 acre, more or less, plat to be known as Outlot 2 of the NE¼ of Section 26, Township 156 North, Range 89 West (**McGahan Township**) contingent on landowners signing the application and plat as Caldis, Tingum & Tingum, LTD have met all the criteria as set forth in the *Mountrail County Subdivision Resolution* and is further contingent upon Caldis, Tingum & Tingum, LTD complying with all other regulations as set forth in the Mountrail County Zoning Ordinances. Upon roll call, all present voted yes. Motion carried.

8:36 Public Hearing Variance Schenk LLC/ Neil Bartelson

Applicant: Schenk LLC, in concurrence with Neil Bartelson, landowner

Location: 320 acre, more or less, tract of land described as the S½ of Section 4, Township 152 North, Range 90 West (**Parshall Township**)

Number of certified mailing receipts provided: 5

Purpose: Pump water under ND State Temporary Water Permit ND2018-19176 and ND State Temporary Water Permit ND2018-19175 from Shell Creek for fracking

Present: Ron Schenk, with Schenk LLC

Discussion: Mr. Schenk stated they will be selling water to EOG as EOG has an underground pipeline there and this is similar to last year's permit. No trucks or hoses will be necessary. ND State Permit Number ND2018-19175 is only until July 31, 2019 and will be used only during high water times. A discussion was held about the legal description.

Outcome: Approved with contingencies.

Motion: Moved by Vice Chairman Weisenberger, seconded by Commissioner Ruland to approve the zoning request filed by Schenk LLC, in concurrence with Neil Bartelson, landowner, for a variance permit to pump water under ND State Temporary Water Permit ND2018-19176 valid January 1, 2019 through December 31, 2019 and ND State Temporary Water Permit ND2018-19175 valid January 1, 2019 through July 31, 2019 from Shell Creek for fracking on a 320 acre, more or less, tract of land described as the S½ of Section 4, Township 152 North, Range 90 West (**Parshall Township**) landowners being contacted regarding any hose placement and adhering to Mountrail County Road & Bridge temporary ROW Use requirements when necessary as Schenk LLC has met all criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is further contingent upon Schenk LLC complying with all other terms and conditions of the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes. Motion carried.

Applicant: Northwest Water Transfer LLC in concurrence with Cindy L Blikre GST Trust, landowner

Location: 320 acre, more or less, tract of land described as the N½ of Section 18, Township 158 North, Range 92 West (**Powers Township**).

Number of certified mailing receipts provided: 2

Purpose: Pump water under ND State Temporary Water Permit ND2018-19149 from Powers Lake for fracking.

Present: Jerry Shaw with Northwest Water Transfer LLC

Discussion: Mr. Shaw stated this to pump water out of Powers Lake, across the Blikre Trust land to the Liberty Resources 4 corners pad located on the Blikre Trust land. Mr. Shaw stated they are using a lay flat hose. Commissioner Hollekim stated the Blikre Trust does not own the entire N½ so approving the whole N½ would be wrong. Lori Hanson, Mountrail County Tax Director stated the legal for the Blikre Trust would be Gov't Lots 2, 3, 4 & 5 of the N½.

Outcome: Approved with contingencies.

Motion: Moved by Commissioner Hollekim, seconded by Commissioner Borud to approve the zoning request filed by Northwest Water Transfer LLC in concurrence with Cindy L Blikre GST Trust, landowner, for a variance to pump water under ND State Temporary Water Permit ND2018-19149 valid December 1, 2018 to November 30, 2019 from Powers Lake for fracking on a 161 acre, more or less, tract of land described as Gov't Lots 2, 3, 4 & 5 of the N½ of Section 18, Township 158 North, Range 92 West (**Powers Township**) contingent on using only flat hose, landowners being contacted regarding any hose placement and adhering to Mountrail County Road & Bridge temporary ROW Use requirements when necessary as Northwest Water Transfer LLC has met all criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is further contingent upon Northwest Water Transfer LLC complying with all other terms and conditions of the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes. Motion carried.

Chairman Sorenson turned the floor over to Vice Chairman Weisenberger to facilitate the 8:42 public hearing.

8:42 Public Hearing Variance ES Krieger/Dan Krieger POA

Applicant: E.S. Krieger, Dan Krieger POA, landowner

Location: 40 acre, more or less, tract of land described as the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 10, Township 154 North, Range 94 West (**Unorganized Township**)

Number of certified mailing receipts provided: N/A

Purpose: Pumping river water under ND State Temporary Water Permit ND2018-19120 for fracking using a flat hose.

Present: Dan and Gary Krieger

Discussion: Mr. Krieger stated this was the same location as last time, using a flat hose. Mr. Krieger stated his power of attorney is no longer valid as his father has passed away. Mr. Krieger stated he does have signatures of all the heirs that hold interest in the property and provided the Board a copy.

Outcome: Approved with contingencies.

Motion: Moved by Commissioner Borud, seconded by Commissioner Hollekim to approve the zoning request filed by E.S. Krieger Estate, landowners, for a variance permit to use land zoned agricultural for pumping river water under ND State Temporary Water Permit ND2018-19120 valid February 15, 2019 through June 15, 2019 using a flat hose on a 40 acre, more or less, tract of land described as the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 10, Township 154 North, Range 94 West (**Unorganized Township**) contingent on signature of the Estates Personal Representative on the permit, using only flat hose, contacting landowners regarding any hose placement, and adhering to Mountrail County Road & Bridge temporary ROW Use requirements when necessary as E.S. Krieger Estate has met all criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is further contingent upon E.S. Krieger Estate complying with all other terms and conditions of the Mountrail County Zoning Ordinance. Upon roll call, Commissioner's Hollekim, Borud, Klug, Hovda and Ruland voted yes. Motion carried.

Vice Chairman Weisenberger returned the floor to Chairman Sorenson.

8:45 Public Hearing Variance Highline Water LLC/ Thomas & Jackie Heinle

Applicant: Highline Water, LLC in concurrence with Thomas & Jackie Heinle, landowners

Location: a 40 acre, more or less, tract of land described as the NW¼NE¼ of Section 22, Township 156 North, Range 94 West (**Myrtle Township**).

Number of certified mailing receipts provided: 3

Purpose: Pump water from White Earth River for fracking using a flat hose. ND State Temp. Water permit has not been received.

Present: Landon Eskew with Highline Water LLC

Discussion: Liz Hollowell, Planning & Zoning Administrative Assistant reported one comment had been received. The Landowner was concerned about the pump noise and wanted to make sure the pump would not be moved around. The Landowner was not opposed to the pump, just concerned about its location. Mr. Eskew showed the location on the map of the pump placement to help minimize any noise. Mr. Eskew stated he would be visiting with the Heinle's today regarding pump placement to make sure the location would be acceptable. Commissioner Hollekim asked about the ND State Temp. Water Permit. Mr. Eskew stated the State was backlogged and they are still waiting for the ND State Temp. Water Permit. Mr. Eskew stated he estimated work would begin at this location in July. Commissioner Ruland stated this application would be tabled. Commissioner Hollekim stated renewal variances could be contingent on a new ND State Temp. Water Permit given to Planning & Zoning, but any new variances would be tabled until the ND State Temp. Water Permit was issued and brought in front of the Planning & Zoning Board.

Outcome: Tabled

Motion: Moved by Commissioner Ruland, seconded by Commissioner Wienbar to table the zoning request filed by Highline Water, LLC in concurrence with Thomas & Jackie Heinle, landowners, for a variance to pump water from White Earth River for fracking on a 40 acre, more or less, tract of land described as the NW¼NE¼ of Section 22, Township 156 North, Range 94 West (**Myrtle Township**) until the applicant receives the ND State Temp. Water Permit associated with this application. Upon roll call, all present voted yes. Motion carried.

8:48 Public Hearing Variance Highline Water LLC/ Douglas & Evelyn Miller

Applicant: Highline Water, LLC in concurrence with Douglas & Evelyn Miller, landowners

Location: 40 acre, more or less, tract of land described as the NE¼SE¼ of Section 35, Township 157 North, Range 91 West (**James Hill Township**)

Number of certified mailing receipts provided: 3

Purpose: Pump water from an unnamed slough for fracking using a flat hose. ND State Temp. Water permit has not been received.

Present: Landon Eskew with Highline Water LLC

Discussion: Mr. Eskew stated he is still waiting on this ND State Temp. Water permit for this location as well.

Outcome: Tabled

Motion: Moved by Commissioner Ruland, seconded by Commissioner Wienbar to table the zoning request filed by Highline Water, LLC in concurrence with Douglas & Evelyn Miller, landowners, for a variance to pump water from an unnamed slough for fracking on a 40 acre, more or less, tract of land described as the NE¼SE¼ of Section 35, Township 157 North, Range 91 West (**James Hill Township**) until the applicant receives the ND State Temp. Water Permit associated with this application. Upon roll call, all present voted yes. Motion carried.

8:51 Public Hearing Variance Highline Water LLC/ / Evans
Grain Farm LLP

Applicant: Highline Water, LLC in concurrence with Evans Grain Farms LLC landowner

Outcome: This application has been withdrawn due to incorrect legal description. Does not match the ND State Temp. Water Permit ND2018-19127. No comments were received.

8:54 Public Hearing Variance Highline Water LLC/ Boyd &
Connie Anderson

Applicant: Highline Water, LLC in concurrence with Boyd & Connie Anderson, landowners

Location: A portion of land described as part of the W½SE¼, East of 99th Drive NW of Section 16, Township 156 North, Range 94 West (**Myrtle Township**).

Number of certified mailing receipts provided: 2

Purpose: Pump water under ND State Temporary Water Permit ND2018-19140 from the White Earth River for fracking using a flat hose.

Present: Landon Eskew with Highline Water LLC

Discussion: Liz Hollowell, Planning & Zoning Administrative Assistant reported one comments had been received for this one as well. The Landowner was also concerned about the pump noise. Mr. Eskew showed the location of the pump on the map to help minimize noise. Commissioner Hollekim asked if the road involved was a County road. Jana Hennessy, Road & Bridge Engineer stated its County Road 2 and Highline Water will need to work the Road and Bridge for any permits regarding that road. Mr. Eskew stated he would and asked about using County Road 2 since it is closed. Jana Hennessy, Road & Bridge Engineer stated any permit would be reviewed by Mountrail County States Attorney as there may be liabilities to the County for issuing a permit in a closed area.

Outcome: Approved with contingencies.

Motion: Moved by Commissioner Hollekim, seconded by Commissioner Borud to approve the zoning request filed by Highline Water, LLC in concurrence with Boyd & Connie Anderson, landowners, for a variance to pump water under ND State Temporary Water Permit ND2018-19140 valid from January 1, 2019 to December 31, 2109 from the White Earth River for fracking on a portion of land described as part of the W½SE¼, East of 99th Drive NW of Section 16, Township 156 North, Range 94 West (**Myrtle Township**) contingent on using only flat hose, all landowners being contacted about hose placement, and adhering to Mountrail County Road & Bridge temporary ROW Use requirements as required as Highline Water LLC has met all criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is further contingent upon Highline Water LLC complying with all other terms and conditions of the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes. Motion carried.

Building Permit

Permit No.	Name/Address of applicant	Legal Description	Sec	Township	Range	Township Name	Building Type and Zoning
2038	Scott E Lawson 1809 35 th Ave SE Minot, ND 58701 701-720-4077 lippslawson@gmail.com	Brendles Lot 12	10	151	91	Liberty	Zoned: RES Lake Home

Liz Hollowell, Planning & Zoning Administrative Assistant stated last meeting there were questions about setback on this building permit and Scott Lawson,

landowner, is here to answer any questions the Board may have. Mr. Lawson, landowner, stated the picture on the building permit was situated with the top of the page being east. A discussion was held on setbacks and potential buildings. Commissioner Hollekim stated the setback on the rear of the building is required to be 30 feet from the property line and this building permit shows 20 feet. That would need to be corrected on the building permit before it is granted.

Motion: Moved by Commissioner Hollekim, seconded by Vice Chairman Weisenberger to approve building permit #2038 contingent on the rear setback being corrected to show 30' and Mr. Scott Lawson following all Mountrail County Zoning Ordinance. Upon roll call, all present voted yes. Motion carried
Chairman Sorenson suggested that we put directional arrows on the building permit so the applicant would know which way is north. Lori Hanson, Mountrail County Tax Director asked if applicants receive any excerpt regarding setback when they submit a building permit. Liz Hollowell, Planning & Zoning Administrative Assistant stated a lot of building permits are mailed in or sent by email, so the conversation starts after the fact. Lori Hanson, Mountrail County Tax Director suggested the building permit title be changed to a zoning permit since Mountrail County does not have a building inspector.

Approval of Minutes

Motion: Moved by Commissioner Borud, seconded by Commissioner Ruland to approve the December 27, 2018 minutes as presented. Upon roll call, all present voted yes. Motion carried.

Staff Concerns

- Liz Hollowell, Planning & Zoning Administrative Assistant requested approval of 2019 Planning & Zoning schedule. This scheduled is posted online, in the display case at the South Complex, at the Planning & Zonings front desk and emailed to several regular applicants.

Motion: Moved by Commissioner Ruland, seconded by Commissioner Borud to approve the 2019 Planning and Zoning schedule as presented. Upon roll call, all present voted yes. Motion carried.

- Liz Hollowell, Planning & Zoning Administrative Assistant reported that Central Specialties, Inc. has sent in both landowners approvals to release their letter of credit. Their letter of credit expired November 1, 2018, so they do not have one to release. The Fisher Sand and Gravel Company location use was over before the conditional use permit (CUP) was approved so it was denied by Planning & Zoning. The Meyer's location CUP was approved but not recorded.

Both locations have been vacated and cleaned up. Pictures of the locations are available.

Motion: Moved by Commissioner Borud, seconded by Vice Chairman Weisenberger to approve the release of Central Specialties, Inc. letter of credit, as both landowners have a signed release for the locations. Upon roll call, all present voted yes. Motion carried.

- Liz Hollowell, Planning & Zoning Administrative Assistant advised the Board of the many Planning & Zoning checklists that are supposed to be used when applicants are completing applications. Jana Hennessy, Road & Bridge Engineer stated Road & Bridge has similar checklists and the applicants are required to sign them so their signatures are part of the record. A discussion was held on the importance of the checklists. The Board determined that checklists are part of the applications. Therefore the checklists are required to be completed and their use will be enforced.
- Liz Hollowell, Planning & Zoning Administrative Assistant advised the Board of the impending move for the Planning & Zoning meetings. Planning & Zoning meetings will be held in the South Complex one more month, February, and then the meeting is scheduled to be held at the courthouse. Also the office of Planning & Zoning will be leaving the South Complex and moving to the courthouse by mid-March. Liz Hollowell, Planning & Zoning Administrative Assistant advised the Board that Planning & Zoning is now a part of the Auditors office and Stephanie Pappa, Mountrail County Auditor would be trained in Planning & Zoning so that there will be better coverage. Vice Chairman Weinberger stated he likes the Planning & Zoning meetings at the South Complex. Commissioner Wienbar agreed. Chairman Sorenson stated that the South Complex is open and easily accessible making people more likely to comply with Mountrail County Planning & Zoning Ordinances. Once it's moved to Mountrail County courthouse, it will be more difficult for people due to the courthouse location and the metal detector. Chairman Sorenson believes we would be doing a disservice to Mountrail County by moving the Planning & Zoning office from the South Complex to the Mountrail County courthouse. Stephanie Pappa, Mountrail County Auditor stated for her to take over Planning & Zoning, the office must move to the courthouse. Vice Chairman Weinberger suggested the meetings be held at the South Complex and the Planning & Zoning department move to the courthouse. Commissioner Borud agreed. Commissioner Hollekim stated she does not want to tell an official how to run their office or where they should have their meetings. Stephanie Pappa, Mountrail County Auditor stated she would leave the decision to keep the Planning & Zoning meetings at the South Complex to Liz Hollowell of Planning & Zoning, as she is the one that would need to manage that. Liz Hollowell, Planning & Zoning Administrative Assistant stated

keeping the Planning & Zoning meeting at the South Complex make sense. Commissioner Borud advised if it becomes a problem, to bring the subject back to the Board for further consideration. It was agreed by the Board the Planning & Zoning meeting would stay at the South Complex. Commissioner Hollekim informed the Board that Planning & Zoning had slowed down so there wasn't a reason to hire another person. Disaster Emergency Services has been moved to the Sheriff office and they have a full time person to handle that with others being trained for backup. Vice Chairman Weisenberger asked if the Sheriff could help with compliance. Liz Hollowell, Planning & Zoning Administrative Assistant stated she would be able to handle code enforcement and would ask for help if necessary.

- Liz Hollowell, Planning & Zoning Administrative Assistant advised the Board of landowners with valid ND State Temp. Water Permits with no variance permits and the actions that will be taken regarding those.
- Liz Hollowell, Planning & Zoning Administrative Assistant advised the Board that our *Temporary Use Application*, while approved at the December 27th 2018 meeting, is still pending until the accompanying Zoning Ordinance is completed.

Board Concerns

None

Next Meeting

Next regular meeting of the Mountrail County Planning & Zoning Board is ***Monday February 25, 2019*** at 8:30 am at the Mountrail County South Complex, 8103 61st St. NW Stanley, ND 58784.

Meeting adjourned at 11:13 a.m.

Approval

Accepted and approved this 25th day of February 2019

Charlie Sorenson, Chairman
Mountrail County
Planning & Zoning Commission

Liz Hollowell
Administrative Assistant
Mountrail County
Planning & Zoning