

PROCEEDINGS OF THE MOUNTRAIL COUNTY
PLANNING & ZONING COMMISSION
Monday January 26th, 2015

The Mountrail County Planning & Zoning Commission met on Monday, January 26, 2015 at the Mountrail County South Complex with the following voting members present: Rosemarie Bieri, Arlo Borud, Roger Hovda (via telephone), Bill Klug, Trudy Ruland, Charlie Sorenson, Gary Weisenberger, and Linda Wienbar. Member absent was Chase Lindberg. Also present were Teresa Captain, Mountrail County Deputy Tax Director, Wade Enget, Mountrail County States Attorney, Lori Hanson, Mountrail County Tax Equalization Director, Donald W. Longmuir Jr., Mountrail County Zoning Administrator/Planner, Judith Kleven, Mountrail County Planning & Zoning Administrative Assistant, Kayla Welland, Eagle Rock Timber and James Perry, Knife River Corporation.

Donald Longmuir called the annual reorganizational meeting to order. First item on the agenda was the election of a Chairman. Moved by Commissioner Borud, seconded by Commissioner Ruland to nominate Roger Hovda for Chairman. Moved by Commissioner Borud, seconded by Commissioner Sorenson to close nominations and cast a unanimous ballot for Roger Hovda as Chairman. Commissioners Bieri, Borud, Klug, Ruland, Sorenson, Weisenberger, Wienbar voted yes, Commissioner Hovda voted no, motion carried.

Chairman Hovda called for nominations for Vice Chairman. Moved by Commissioner Hovda, seconded by Commissioner Bieri to nominate Arlo Borud for Vice Chairman, no further nominations were received, all present voted yes, motion carried.

Chairman Hovda turned the chair over to Vice Chairman Borud. Vice Chairman Borud called for nominations for Secretary. It was moved by Commissioner Hovda, seconded by Commissioner Ruland to nominate Donald Longmuir and Lisa Lee as Secretary. Upon roll call vote all present voted yes, motion carried.

Moved by Commissioner Ruland, seconded by Commissioner Bieri to remove from the table the zoning request filed by Montana Dakota Utilities with concurrence from Curtis & Leslie Trulson, landowners, for a conditional use permit for the purpose of building an electrical distribution substation on a 0.517 acre, more or less, tract of land described as Outlot 4 of the NW¹/₄NW¹/₄ of Section 20, Township 156 North, Range 92 West (Ross Township) originally heard at the November 24, 2014 meeting. Present for this discussion was Dennis Biederstedt representing Montana Dakota Utilities. Mr. Biederstedt presented two certified mail return receipt cards. P&Z staff reported no comments had been received regarding this project. There was considerable discussion regarding access to the property over acquired right-of-way, the status of the right of way regarding agricultural use and plats going to the centerline of roads.

Moved by Commissioner Hovda, seconded by Commissioner Bieri to approve the conditional use permit request filed by Montana Dakota Utilities with concurrence from Curtis & Leslie Trulson, for a conditional use permit to use land zoned agricultural to construct and operate an electrical distribution substation on a 0.517 acre, more or less, tract of land described as Outlot 4 of the NW¹/₄NW¹/₄ of Section 20, Township 156 North, Range 92 West (Ross Township) as Montana Dakota Utilities has met all criteria as set forth in Article IV, Section 4, Paragraph E, Items 1 through 6 of the Mountrail County Zoning Ordinance and is contingent upon the provision Montana Dakota Utilities comply with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes, motion carried.

Planning & Zoning staff reported Sundhagen Sand & Gravel had requested a continuation of their request for a conditional use permit from the November 24, 2014 meeting. In that the item has been tabled no action was required.

Vice Chairman Borud called the 8:45 a.m. public hearing to order regarding the zoning request filed by Citadel H₂O with concurrence from Fred W. & Joyce Evans, landowners, for a variance to pump water from a surface water source with temporary mobile equipment on a 40 acre, more or less, tract of land described as the NE¹/₄SW¹/₄ Section 6, Township 153 North, Range 91 West (Crane Creek Township). Present for this discussion was Ron Solmonson and Bryce Klasen representing Citadel H₂O and Doug Kinnoin. Four certified mail return receipt cards were presented and staff reported no comments had been received. Discussion included how the water would be moved from the location, need for road haul agreements to include dust control and road maintenance with impacted townships, and the length of the temporary water permit.

Moved by Commissioner Sorenson, seconded by Commissioner Bieri to approve the variance request filed by Citadel H₂O with concurrence from Fred W. & Joyce Evans, landowners, to use land zoned agricultural for the purpose of drawing slough water for fracking on a 40 acre, more or less, tract of land described as the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 6, Township 153 North, Range 91 West (Crane Creek Township) contingent upon filing a road haul agreement with Crane Creek Township if water is moved via truck on township roads as per the terms and conditions of The State of North Dakota Temporary Water Permit SWC Project No. 1400A Permit Number -ND2014-15648, as Citadel H₂O has met all criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is contingent upon Citadel H₂O complying with all other terms and conditions of the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes, motion carried.

Vice Chairman Borud called the 8:50 a.m. public hearing to order regarding the zoning request filed by Citadel H₂O, with concurrence from Larry & Donette Arndt, Marlene Price, and Craig & Jeannette Anderson, landowners, for a variance to pump water from a surface water source with temporary mobile equipment on a 160 acre, more or less, tract of land described as the NE $\frac{1}{4}$ Section 12, Township 154 North, Range 92 West (Brookbank Township). Present for this discussion was Ron Solmonson and Bryce Klasen representing Citadel H₂O and Doug Kinnoin. Eleven certified mail return receipt cards from adjacent landowners were presented and staff reported no comments were received. Mr. Kinnoin farms adjacent property and had a concern regarding the diversion point and what effect this may have on a larger slough in the area. Mr. Solmonson stated the water from this site would only be moved by hose.

Moved by Commissioner Hovda, seconded by Commissioner Ruland to approve the variance request filed by Citadel H₂O with concurrence from Larry & Donette Arndt, Marlene Price, and Craig & Jeannette Anderson, landowners, to use land zoned agricultural for the purpose of drawing surface water for fracking on a 160 acre, more or less, tract of land described as the NE $\frac{1}{4}$ Section 12, Township 154 North, Range 92 West (Brookbank Township) by hose/pipeline only under the terms and conditions of The State of North Dakota Temporary Water Permit SWC Project No. 1400A Permit Number ND-2014-16254, as Citadel H₂O has met all criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is further contingent upon Citadel H₂O complying with all other terms and conditions of the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes, motion carried.

Vice Chairman Borud called the 8:55 a.m. public hearing to order regarding the subdivision review application filed by Dale Tinjum for a subdivision review on a 15.126 acre, more or less, plat to be known as Outlot 1 of the N $\frac{1}{2}$ SE $\frac{1}{4}$ Section 26, Township 158 North, Range 93 West (Powers Lake Township). Present for discussion via telephone was Dale Tinjum. Staff reported they received three certified mail return receipt cards from adjacent landowners and the township and no comments had been received regarding this subdivision request. Staff reported Mr. Tinjum had paid a one hundred dollar fee and was requesting a waiver of the \$1,000 dollar fee because this was a one-time split of the property to a family member.

Moved by Commissioner Weisenberger, seconded by Commissioner Ruland to waive the \$1,000 fee and reduce to a \$100 fee and approve the subdivision review application to allow for Outlot 1 of the N $\frac{1}{2}$ SE $\frac{1}{4}$ Section 26, Township 158 North, Range 93 West (Powers Lake Township), contingent upon the property not being allowed to be subdivided in the future as Dale Tinjum has met all of the requirements of the Mountrail County Land Subdivision Resolution. Upon roll call vote all present voted yes, motion carried.

Vice Chairman Borud called the 9:00 a.m. public hearing to order regarding the zoning request filed by RSI Chemicals, with concurrence from Foley Three LLC, landowner, for a conditional use permit to use land zoned industrial for the purpose of storage and distribution of oilfield projection chemicals on a 20.9 acre, more or less, tract of land known as Lot 2, Block 1 of the Palermo Industrial Park Second Addition (Palermo City). Staff reported the receipt of an email from Nancy Helland regarding her concerns about the chemicals to be stored on site. No one was present representing RSI.

Moved by Commissioner Ruland, seconded by Commissioner Sorenson to table action to the call of the Chairman on this zoning request for a conditional use permit due to the failure of RSI Chemicals to have a representative at the hearing. Upon roll call vote all present voted yes, motion carried.

Moved by Commissioner Weisenberger, seconded by Commissioner Ruland to remove from the table the zoning request filed by Quale Trucking, with concurrence from Kenneth V. & Joan A. Littlefield and John & Kathleen Warberg, landowners, for a variance to use land zoned agricultural for the purpose of pumping excess surface water for industrial use on a 280 acre, more or less,

tract of land described as the SW¹/₄, SE¹/₄NW¹/₄, W¹/₂NW¹/₄ of Section 13, Township 153 North, Range 91 West (Crane Creek Township) tabled at the December meeting. Present for this discussion was Christopher Michael Allen, representing Quale Trucking. Staff reported the receipt of three U.S. Post Office tracking slips from the adjacent land owners, an agreement to use/cross township property in Crane Creek & Knife River Townships, and no comments had been received regarding this variance request. Discussion included road haul agreements, dust control, and road maintenance agreements.

Moved by Commissioner Weisenberger, seconded by Commissioner Wienbar to approve the variance request filed by Quale Trucking, with concurrence from Kenneth V. & Joan A. Littlefield and John & Kathleen Warberg, landowners, to use land zoned agricultural for the purpose of pumping excess surface water for industrial use on a 280 acre, more or less, tract of land described as the SW¹/₄, SE¹/₄NW¹/₄, W¹/₂NW¹/₄ Section 13, Township 153 North, Range 91 West (Crane Creek Township) contingent upon road haul agreements regarding dust control and maintenance being received by the Planning & Zoning Department prior to water being pumped under the terms and conditions of The State of North Dakota Temporary Water Permit SWC Project No. 1400A Permit Number ND-2014-16155, as Quale Trucking has met all criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is further contingent upon Quale Trucking complying with all other terms and conditions of the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes, motion carried.

Oscar Allen, Green Group Holdings Corporation and Shane Goettle, Odney were present to update the Board on the status of the Black Mallard Disposal Facility which is located on a 240 acre tract, more or less, in the SW¹/₄, W¹/₂SE¹/₄ Section 5, Township 155 North, Range 92 West (Alger Township). Mr. Allen distributed a synopsis of the application which had been submitted to the North Dakota Department of Health on December 19, 2014. Mr. Allen discussed the application process which includes submitting the application, meeting with the State Health Department to discuss the application, making any revisions or additions to the application, preparation of a final draft application which may or may not require a public hearing, a thirty day response time for public comment with anticipation of a final approved application in the May/June time frame. He highlighted the financial assurances for the closing of the facility; improvement of 89th Avenue NW from U.S. Highway 2 to the site, the 39.4 acre landfill site would hold approximately 3.9 million cubic yards of matter, the storm water detention ponds and the monitoring wells. Mr. Allen will keep the Board informed as the application process with the State Health Department proceeds.

Planning & Zoning staff informed the Board that Badlands Power Fuels has withdrawn the zoning amendment and conditional use permit scheduled for 9:10 a.m. and 9:15 a.m.

Moved by Commissioner Hovda, seconded by Commissioner Ruland to accept the minutes of the December 22, 2014 meeting as mailed prior to the meeting. Upon roll call vote all present voted yes, motion carried.

Moved by Commissioner Sorenson, seconded by Commissioner Ruland to approve building permits #1846 and #1847 with a note for Planning & Zoning staff to discuss building permit #1846 with the Stanley Fire Department regarding the fire water tank. Upon roll call vote all present voted yes, motion carried.

Board items included definition of immediate family, County employee handbook definition of immediate family and how is the "no further platting" of a piece of property to be recorded and enforced.

Staff brought up the issue of amendments, conditional use permits and variances that are approved but the signed, notarized documents are not returned for recording, some dating back to 2009. Staff would like to see a time limit in returning signed, notarized documents and if they are not received within a certain amount of time, ie. 30 days, the action of the Board is considered null and void and the parties would be required to repeat the entire application process. Attorney Enget pointed out this may require an amendment to the County's current zoning ordinance.

Moved by Commissioner Sorenson, seconded by Commissioner Weisenberger to direct the Planning & Zoning staff to work with Attorney Enget to prepare the proper wording to require documents to be signed, notarized and returned in a timely manner. Upon roll call vote all present voted yes, motion carried.

Staff had received two envelopes from Bert Hauge, Chairman, Wayzetta Township that had been mailed certified mail return receipt request on October 10, 2014 but was not received by Mr. Hauge until January 3, 2015. The surface tablets have arrived and Garrett Volk, Mountrail County IT Director, will conduct a training session at the February 23rd meeting.

Next regular meeting of the Mountrail County Planning and Zoning Board is Monday February 23rd, 2015 at 8:30 a.m. at the Mountrail County South Complex 8103 61st NW, Stanley, N.D.

Accepted and approved this 23rd day of February, 2015.

Arlo Borud, Vice-Chairman
Mountrail County Planning & Zoning Commission

Donald W. Longmuir Jr., AICP
Zoning Administrator