MiNUTES

**Mountrail County Planning & Zoning Commission**

**May 26, 2020**

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| **Mountrail County Courthouse, 101 North Main Street, Stanley, ND 58784** |

*Chairman Sorenson called the meeting to order at 8:30 a.m.*

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| **In Attendance** |

**Board members present**: Charlie Sorenson, Tom Bieri, Trudy Ruland, Gary (Fritz) Weisenberger, Linda Wienbar, Joan Hollekim, Roger Hovda, Thomas Nash, and Arlo Borud

**Also present:** Lori Hanson, Mountrail County Tax Director, Stephanie Pappa, Mountrail County Auditor/Planning and Zoning Administrator, Heidi Kory, Planning & Zoning Assistant Administrator, Kim Savage, Mountrail County Property Assessor and Wade Enget, Mountrail County States Attorney.

**Absent:** Jana Hennessy, Road & Bridge Engineer

**Public attending:** Michael Cymbaluk, Jared Stubbs, James Edwards and Jeff Ruud.

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| **Approval of Agenda** |

Moved by Commissioner Borud, seconded by Commissioner Hollekim, to approve the agenda. Upon roll call, all present voted yes. Motion carried.

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| 8:33 a.m. Public Hearing –  *Temporary Use Permit* | Hydra XL, LLC/ Double Eagle, LLP, Landowner |

**Applicant**: Hydra XL, LLC with concurrence from Double Eagle, LLP, landowners.

**Location**: 40 acre, more or less, tract of land described as the SE¼NW¼ of Section 33, Township 154 North, Range 92 West (**Brookbank Township**).

**Number of certified mailing receipts provided**: 1

**Purpose**: Pump water from the Little Knife River for fracking using a flat hose

**Present:** Michael Cymbaluk

**Discussion:** Michael Cymbaluk stated would use the pond from time to time depending on the oil activity. Discussion was held on the renewing of the water permit if needed.

**Motion:** Moved by Commissioner Hovda, seconded by Commissioner Wienbar, to approve the zoning request filed by Hydra XL, LLC with concurrence from Double Eagle, LLP, landowners, for a temporary conditional use permit for a Temporary Freshwater Industrial Use Point of Diversion to pump water from Little Knife River for fracking on a 40 acre more or less, tract of land described as the SE¼NW¼ of Section 33, Township 154 North, Range 92 West (Brookbank Township) contingent on adhering to the ND State Water Permit ND2019-19908 valid March 1, 2020 through July 31, 2020 using only flat hose, all landowners being contacted regarding any hose placement and adhering to Mountrail County Road & Bridge temporary ROW Use requirements when applicable as Hydra XL, LLC with concurrence from Double Eagle, LLP, landowners has met all criteria as set forth in Article II, Section XVI and Article IV, Section IV of the Mountrail County Zoning Ordinance and is further contingent upon Hydra XL, LLC with concurrence from Double Eagle, LLP, landowners, complying with all other terms and conditions of the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes. Motion carried.

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| 8:36 a.m. Public Hearing –  *Conditional Use Permit* | Fisher Sand & Gravel Company/ Oscar R. and Evon M. Moen Life Estate, Sandra Lindberg, Carol Johnson, Lois Ellis Life Estate and James Johnson, Landowners |

**Applicant**: Fisher Sand & Gravel Company with concurrence from Oscar R. and Evon M. Moen Life Estate, Sandra Lindberg, Carol Johnson, Lois Ellis Life Estate and James Johnson, landowners.

**Location**: 80 acre, more or less, tract of land described as the NW¼ less 30.46 acres in USA tract, Section 15, Township 154 North, Range 89 West (**Oakland Township**).

**Number of certified mailing receipts provided**: 3

**Purpose**: Mining gravel

**Present:** Vent Wallace, Fisher Sand & Gravel Company

**Discussion:** Vent Wallace will be using this pit for the NDDOT highway 22.

**Motion:** Moved by Commissioner Hollekim, seconded by Commissioner Hovda, to approve the zoning request filed by Fisher Sand & Gravel Company with concurrence from Oscar R. and Evon M. Moen Life Estate, Sandra Lindberg, Carol Johnson, Lois Ellis Life Estate and James Johnson, landowners, for a conditional use permit to use land zoned agricultural for the purpose of mining gravel on a 80 acre more or less, tract of land described as the NW¼ less 30.46 acres in USA tract, Section 15, Township 154 North, Range 89 West (Oakland Township) for five (5) years contingent upon a $125,000.00 letter of credit payable to Mountrail County and renewed yearly for the 5 year period as well as a current road haul agreement with Oakland Township that includes dust control as Fisher Sand & Gravel Company with concurrence from Oscar R. and Evon M. Moen Life Estate, Sandra Lindberg, Carol Johnson, Lois Ellis Life Estate and James Johnson, landowners, has met all criteria as set forth in Article IV, Section IV in the Mountrail County Zoning Ordinance and is further contingent upon Fisher Sand & Gravel Company with concurrence from Oscar R. and Evon M. Moen Life Estate, Sandra Lindberg, Carol Johnson, Lois Ellis Life Estate and James Johnson, landowners complying with all other terms and conditions of the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes. Motion carried.

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| 8:39 a.m. Public Hearing –  *Temporary Use Permit* | Jared Stubbs/ Terry Anderson, Landowner |

**Applicant**: Jared Stubbs with concurrence from Terry Anderson, landowner.

**Location**: 160 acre, more or less, tract of land described as the NE¼ of Section 9, Township 154 North, Range 93 West (**Rat Lake Township**).

**Number of certified mailing receipts provided**: 4

**Purpose**: Pump water from an unnamed slough for fracking using a flat hose

**Present:** Jared Stubbs, had a haul route agreement in the past and he would like approval to lay flat hose until the haul route agreement is established. Jared Stubbs stated that 90% of the water transporting is done by flat hose. Chairman Sorenson stated this would be a lay flat hose approval only. Jeff Ruud, Rat Lake Township Chairman stated he doesn’t believe that a permit was ever acquired for a water depot in section 10 in Township 154 North, Range 93 West (Rat Lake Township). Jared Stubbs stated that he thinks that Chairman Ruud is getting confused with another person. Jared Stubbs and Jeff Ruud will get together once Jared Stubbs returns to the states.

**Motion:** Moved by Commissioner Ruland, seconded by Commissioner Hovda, to approve the zoning request filed by Jared Stubbs with concurrence from Terry Anderson, landowner, for a temporary conditional use permit for a Temporary Freshwater Industrial Use Point of Diversion to pump water from an unnamed slough for fracking on a 160 acre more or less, tract of land described as the NE¼ of Section 9, Township 154 North, Range 93 West (Rat Lake Township) contingent on adhering to the ND State Water Permit ND2019-19541 valid August 27, 2019 through August 26, 2020 using only flat hose, all landowners being contacted regarding any hose placement and adhering to Mountrail County Road & Bridge temporary ROW Use requirements when applicable as Jared Stubbs with concurrence from Terry Anderson, landowner has met all criteria as set forth in Article II, Section XVI and Article IV, Section IV of the Mountrail County Zoning Ordinance and is further contingent upon Jared Stubbs with concurrence from Terry Anderson, landowner, complying with all other terms and conditions of the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes. Motion carried

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| **Approval of Building Permits** |

**Motion**: Moved by Commissioner Hollekim, seconded by Commissioner Bieri, to approve building permits 2105, 2110-2112. Upon roll call, all present voted yes. Motion carried.

**Motion:** Moved by Commissioner Hovda, seconded by Commissioner Wienbar, to approve building permit 2109 with no campers allowed. Upon roll call, all present voted yes. Motion carried.

**Building Permits 2105 & 2109-2112**

2105-Abi Vachal, Applicant/Landowner-Parcel#090016805, Section 35, Township 157 North, Range 89 West, Outlot 2 of the WNW - 28’ x 60’ Mobile Home, 40’ x 50’ Garage and a 12’ x 15’ Breezeway.

2109-Blair & Jaime Haaland Applicant/Landowners-Parcel#510000606, Section 10, Township 151 North, Range 91 West, Brendles Subdivision, Lot 6, 94’ x 40’ Stick built home.

2110-Clint & Donna Ruden, Applicant/ Landowners-Parcel#200014701, Section 27, Township 156 North, Range 93 West, SWSWSW, 64’ x 34’ Modular.

2111-Tyler & Megan Lalim, Applicant/Landowners-Parcel#210011601, Section 22, Township 156 North, Range 94 West, Outlot 1 of SSE, 40’ x 40’ Stick built garage.

2112-Derrick & Shayla Erie, Applicant/Landowners-Parcel#120003500, Section 7, Township 157 North, Range 92 West, SESWSWSE Lots 7 & 8, 4,140 sq. ft. Modular with unfinished basement.

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| **Approval of Minutes** |

**Motion**: Moved by Commissioner Wienbar, seconded by Commissioner Hovda, to approve the April 27, 2020 minutes. Upon roll call, all present voted yes. Motion carried.

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| **Staff Concerns** |

Heidi Kory, Administrative Assistant spoke concerning the ongoing business. Discussion was held on the gravel pits and the majority of the pits being non- compliant due to expired paperwork or no paperwork completed. Administrative Assistant Kory stated the County Road & Bridge is utilizing the gravel pits that currently do not have the proper paperwork and some of these pits have companies pulling gravel out of them also. Jim Edwards spoke concerning selling the gravel and currently no paperwork on file. Jim Edwards is not happy with having the line of credit and discussed the storing of the gravel pile which was taxed by Lori Hanson, Tax Director. Jim Edwards discussed the dissatisfaction of the bond or line of credit which he stated Ward County and Williams County doesn’t have this requirement. Administrative Assistant Kory stated the letter of credit was received from Robby Edwards in 2017. It was recommended that JMAC as the operator or Jim Edwards needs to do the letter of credit. Jim Edwards stated he doesn’t have the money to put up the letter of credit and conditional use permit. Commissioner Sorenson stated the letter of credit is needed if operating commercially. Jim Edwards stated if a township is hauling out of it would they still need the letter of credit. Commissioner Sorenson stated they could request a reduction in the letter of credit. Lori Hanson, Tax Director stated that we do not value the amount of gravel mined. The assessment is based on the Commercial use of the land and whether it is on an active or inactive pit. Commissioner Hollekim was wondering how many of the gravel pits were not compliant. Administrative Assistant Kory stated 80% of the gravel pit listing is not compliant. Discussion was held on the County vs commercial selling of the gravel in the gravel pits and whether they should be applying for a conditional use. Commissioner Sorenson stated the commercial selling should be providing the conditional use and the letter of credit. State’s Attorney Wade Enget stated this needs to be done one at a time for the non-compliant gravel pits. State’s Attorney Enget stated that the county should be making sure the gravel pits are in compliance with P&Z before pulling gravel.

Scott & Trudy Ruland has an expiration date on a variance permit for utilizing ground water that was done on September 27, 2017 and due to expire on December 31, 2020. Trudy Ruland stated this shouldn’t have an expiration date attached to the variance permit due to utilizing ground water.

Moved by Commissioner Hovda, seconded by Commissioner Wienbar, to approve the continual variance permit use without an expiration date. Upon roll call, all present voted yes. Commissioner Ruland did not participate in the vote. Motion carried.

Discussion was held on the resignation letter of Planning & Zoning Administrator, Stephanie A. Pappa. The Board of Commissioners approved the Interim Planning & Zoning Administrator for Heidi Kory.

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| **Next Meeting** |

Next regular meeting of the Mountrail County Planning & Zoning Board is ***Monday June 22, 2020*** at 8:30 am over via GOTOMEETING.

Meeting adjourned at 9:40 a.m.

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| **Approval** |

Accepted and approved this 22nd day of June 2020.

Charlie Sorenson, Chairman Stephanie A Pappa, Administrator

Mountrail County Mountrail County

Planning & Zoning Commission Planning & Zoning