

PROCEEDINGS OF THE MOUNTRAIL COUNTY
PLANNING & ZONING COMMISSION
Monday, May 23rd 2016

The Mountrail County Planning & Zoning Commission met on Monday, May 23rd, 2016 at the Mountrail County South Complex with the following voting members present: Roger Hovda, Charlie Sorenson, Arlo Borud, Bill Klug, Gary Weisenberger, Linda Wienbar, Trudy Ruland, and Chase Lindberg. Absent was Thomas Bieri. Also present were Wade Enget, Mountrail County States Attorney, Lori Hanson, Mountrail County Tax Director, Teresa Captain, Mountrail County Deputy Tax Director, Heather Greenlee, Mountrail County Auditor's Office, Don Longmuir, Planning & Zoning Administrator, Lisa Lee, Assistant Planning & Zoning Administrator and Liz Hollowell, Planning & Zoning Administrative Assistant.

Chairman Hovda called the Planning and Zoning meeting to order at 8:30 a.m.

Chairman Hovda requested a motion to review and approve the current meeting agenda. Moved by Commissioner Weisenberger, seconded by Commissioner Klug to approve the agenda as is with no changes. Upon roll call, all present voted yes, motion carried.

Chairman Hovda called the 8:30 a.m. public hearing to order regarding the zoning request filed by Crown Castle in concurrence with Curtis Trulson, landowner, for conditional use permit to use land zoned agricultural for a communication tower on a 160 acre, more or less, tract of land described as the NE¼ of Section 30, Township 156 North, Range 92 West (**Ross Township**). Five certified return receipt cards from adjacent landowners were received and no other comments.

Present for this discussion was Kathy Wenger of Crown Castle. Ms. Wenger stated her company was contracted by AT&T to secure the necessary permits to be able to upgrade the existing tower.

Moved by Commissioner Weisenberger, seconded by Commissioner Borud to approve the zoning request filed by Crown Castle in concurrence with Curtis Trulson, landowner, for conditional use permit to use land zoned agricultural for a communication tower on a 160 acre, more or less, tract of land described as the NE¼ of Section 30, Township 156 North, Range 92 West (**Ross Township**) as Crown Castle has met the criteria set forth in Article IV, Section IV, Paragraph E, Items 1 through 6 in the Mountrail County Zoning Ordinance and is contingent upon Crown Castle complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes. Motion carried.

Chairman Hovda called the 8:33 a.m. public hearing to order regarding the zoning request filed by Crown Castle in concurrence with Curtis Trulson, landowner, for a variance for a communication tower exceeding 90'

in the NE¼ Section 30, Township 156, Range 92 (**Ross Township**). Five certified return receipt cards from adjacent landowners were received and no other comments.

Kathy Wenger of Crown Castle was also present for this discussion. This is for the height of the tower for AT&T as it will be a 460ft cell tower according to the attached diagram.

Moved by Commissioner Sorenson, seconded by Commissioner Ruland to approve the zoning request filed by Crown Castle in concurrence with Curtis Trulson, landowner, for a variance for a communication tower exceeding 90' in the NE¼ Section 30, Township 156 North, Range 92 west (**Ross Township**) as Crown Castle has met all criteria as set forth in Article IV, Section V in the Mountrail County Zoning Ordinance and is contingent upon Crown Castle complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes. Motion carried.

Chairman Hovda called the 8:36 a.m. public hearing to order regarding the subdivision review request filed by Jacob Estvold, landowner, for an 11.83 acre, more or less, plat to be known as Outlot 1 of the NE¼NW¼, NW¼NE¼ of Section 24, Township 152 North, Range 92 West (**Osborn Township**). No adjacent land owners and no other comments received.

Present for this discussion was Jake Estvold. Administrator Longmuir stated a waiver from the \$1000.00 fee was requested as this is Mr. Estvold land and he is not selling it. The land will be used for a pipe yard. Commissioner Ruland stated the exception was given when people were separating their farmsteads and asked if other request such as this has been granted. Administrator Longmuir stated this waiver has not been given on industrial zoned land. Chairman Hovda stated the fee is waived when the land stays in the family and remains agricultural. Mr. Estvold stated this is his pipe yard and already exists.

Moved by Commissioner Borud, seconded by Commissioner Ruland to approve the subdivision review request filed by Jacob Estvold, landowner, for an 11.83 acre, more or less, plat to be known as Outlot 1 of the NE¼NW¼, NW¼NE¼ of Section 24, Township 152 North, Range 92 West (**Osborn Township**) with the \$1000.00 fee contingent upon Jacob Estvold complying with all other regulations as set forth in the Mountrail County Subdivision Resolution and the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes. Motion carried.

Plat was signed by Chairman Hovda and returned to Jacob Estvold with instructions to take the plat to the Mountrail County Courthouse to have it recorded.

Chairman Hovda called the 8:39 a.m. public hearing to order regarding the zoning request filed by Jacob Estvold, landowner, for an amendment to change land zoned agricultural to industrial for the purpose of storing pipe on an 11.83 acre, more or less, tract of land described as Outlot 1 in the NE¼NW¼, NW¼NE¼ of

Section 24, Township 152 North, Range 92 West (**Osborn Township**). Assistant Administrator Lisa Lee stated this was to change the zoning from agricultural to industrial for the storage of pipe.

Moved by Commissioner Borud, seconded by Commissioner Ruland to present finding of fact from the May 23, 2016 public hearing and make a recommendation to the Mountrail County Commissioners for approval of the zoning request filed by Jacob Estvold, landowner, for an amendment to change land zoned agricultural to industrial for the purpose of storing pipe on an 11.83 acre, more or less, tract of land described as Outlot 1 in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 24, Township 152 North, Range 92 West (**Osborn Township**) as Jacob Estvold has met all criteria as set forth in Article IV, Section III, Subsection E of the Mountrail County Zoning Ordinance and is contingent upon Jacob Estvold complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes, motion carried.

Chairman Hovda called the 8:42 a.m. public hearing to order regarding the subdivision review request filed by Allen Fenstermacker, landowner, for an 18.96 acre, more or less, plat to be known as Outlot 2 of the S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 24, Township 157 North, Range 91 West (**James Hill Township**). Administrator Longmuir stated a fee waiver was requested to reduce the fee to \$100.00 as Mr. Fenstermacker is just separating his homestead.

Present for this discussion was Allen Fenstermacker. Mr. Fenstermacker stated he might sell some of the land in the future so wants to separate the land as he is not selling the farmstead.

Moved by Commissioner Borud, seconded by Commissioner Wienbar to approve the subdivision review request filed by Allen Fenstermacker, landowner, for an 18.96 acre, more or less, plat to be known as Outlot 2 of the S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 24, Township 157 North, Range 91 West (**James Hill Township**) with the \$100.00 fee contingent upon Allen Fenstermacker complying with all other regulations as set forth in the Mountrail County Subdivision Resolution and the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes. Motion carried.

Plat was signed by Chairman Hovda and returned to Allen Fenstermacker with instructions to take the plat to the Mountrail County Courthouse to have it recorded.

Chairman Hovda called the 8:45 a.m. public hearing to order regarding the zoning request filed by Basin Electric Power Cooperative in concurrence with M. Lyle Tande, landowner, for a variance for a temporary material storage area in a portion of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and the W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 29, Township 157, Range 94 (**White Earth Township**). Administrator Longmuir stated this is for a temporary use from April 21, 2016 to June 30, 2018. Five certified return receipt cards from adjacent landowners were received and no other written comments were received.

Present for this hearing was Cris Miller with Basin Electric Power Cooperative. Mr. Miller stated they are building a substation as well as a transmission line from Williston to another substation. Chairman Hovda

asked if there would be much truck traffic with this project. Mr. Miller stated no. Chairman Hovda stated if there would be trucks then dust control and communications with the township supervisors is very important. Chairman Hovda asked if the township was contacted. Mr. Miller stated County Road 10 is a County road and comes from Williams County. The length of construction project was discussed. Commission Borud asked if adjacent landowners were told of this project. Administrator Longmuir stated the certified receipts from adjacent landowners have been received.

Kathy Grubb expressed concern of the dust and garbage generated by this project. She was concerned on which way the trucks were coming in. Mrs. Grubb stated they personally built the road with no help. Mrs. Grub was reminded the road is a section line so it must remain open to the public. Using the GIS map on the screen, Mrs. Grubb's property was identified as well as where the access to Basin Electric's project. Commissioner Weisenberger stated they would need to come in from the South. Chairman Hovda recommended posted sign to advise the trucks where not to go. Mrs. Grubb stated she is deathly allergic to weed killer and would like notice when that is being used. Mr. Miller stated the trucks are instructed to come in from the South end. There is also a sign to identify the project and contact information already in place.

Moved by Commissioner Sorenson, seconded by Commissioner Ruland to approve the zoning request filed by Basin Electric Power Cooperative in concurrence with M. Lyle Tande, landowner, for a variance for a temporary substation material storage area in a portion of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and the W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 29, Township 157, Range 94 (**White Earth Township**) as Basin Electric has met all criteria as set forth in Article IV, Section V in the Mountrail County Zoning Ordinance and is contingent upon Basin Electric complying with all other regulations as set forth in the Mountrail County Zoning Ordinances. Upon roll call, all present voted yes. Motion carried.

Chairman Hovda called the 8:48 a.m. public hearing to order regarding the subdivision review request filed by Alan & Linda Vachal landowners, for a 5.78 acre, more or less, plat to be known as Outlot 1 of the Gov't Lot 1 of the NE $\frac{1}{4}$ Section 4, Township 155 North, Range 93 West (**Debing Township**). Planning & Zoning staff reported there are no adjacent land owners and no other comments received. Administrator Longmuir stated a fee waiver was requested to reduce the fee to \$100.00 as Mr. & Mrs. Vachal are just separating their homestead for estate planning. Present for this hearing was Linda & Alan Vachal.

Moved by Commissioner Weisenberger, seconded by Commissioner Ruland to approve the subdivision review request filed by Alan & Linda Vachal, landowners, for a 5.78 acre, more or less, plat to be known as Outlot 1 of the Gov't Lot 1 of the NE $\frac{1}{4}$ Section 4, Township 155 North, Range 93 West (**Debing Township**) with the \$100.00 fee with the \$100.00 fee contingent upon Alan & Linda Vachal complying with all other regulations as set forth in the Mountrail County Subdivision Resolution and the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes. Motion carried.

Plat was signed by Chairman Hovda and returned to Alan & Linda Vachal with instructions to take the plat to the Mountrail County Courthouse to have it recorded.

Moved by Commissioner Borud, seconded by Commissioner Weinbar to approve the minutes from the April 25th 2016 Planning and Zoning Meeting as presented. Upon roll call, all present voted yes, motion carried. Minutes were signed by Chairman Hovda and, Planning & Zoning Administrative Assistant, Liz Hollowell and given to Heather Greenlee, Mountrail County Auditor's Office for recording.

Moved by Commissioner Ruland, seconded by Commissioner Klug to approve the building permit #1929 - 1931. Upon roll call, all present voted yes. Motion carried.

Revocation/Termination of Conditional Use Permits

Administrator Longmuir stated that on January 23, 2013 a conditional use permit filed by Sundre Sand & Gravel, Inc., with concurrence from landowners, Verna L. Vaage, LE to James, Gregory, & Bruce Vaage, Kathleen M. Hettenbaugh, to use agricultural land for the establishment of a gravel pit on a 480 acre, more or less, tract of land described as SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 29, Township 158N, Range 90W (Sidonia Township) was approved. The project was not started as Fish & Wildlife advised Sundre of their easements on the property. This conditional use permit has been requested to be revoked. No one was present from Sundre Sand & Gravel.

Moved by Commissioner Wienbar, second by Commissioner Ruland to revoke the conditional use permit filed by Sundre Sand & Gravel, Inc., with concurrence from landowners, Verna L. Vaage, LE to James, Gregory, & Bruce Vaage, Kathleen M. Hettenbaugh, to use agricultural land for the establishment of a gravel pit on a 480 acre, more or less, tract of land described as SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 29, Township 158N, Range 90W (Sidonia Township) as the permit was not filed and project not started. Upon roll call, all present voted yes. Motion carried.

Administrator Longmuir stated that on July 22, 2013 a conditional use permit filed by Jeremy and Tara Mork, with concurrence from Bernetta Lee and Randy A Lee Estate, landowners, for a conditional use permit to use land zoned residential to place a single residence mobile home on a tract of land described as Lots 10, 11 & 12, Block 2, Blaisdell Village, Township 156 North, Range 89 West (McGahan Township) was approved. The mobile home was not placed on the property, the conditional use permit was not sign or recorded, and applicants moved out of the area.

Moved by Commissioner Borud, second by Commissioner Klug to revoke the conditional use permit filed by Jeremy and Tara Mork, with concurrence from Bernetta Lee and Randy A Lee Estate, landowners, for a conditional use permit to use land zoned residential to place a single residence mobile home on a tract of land described as Lots 10, 11 & 12, Block 2, Blaisdell Village, Township 156 North, Range 89 West (McGahan Township) as the mobile home was not placed on the property, the conditional use permit was not recorded and applicants moved out of the area. Upon roll call, all present voted yes. Motion carried.

Board Concerns - none

Staff Concerns:

Alan Rehak- Mr. Rehak was present and asked for clarification on temporary housing permitting with the State and County as his permit will be expiring. Chairman Hovda advised Mr. Rehak he would need permits with the State of North Dakota and Mountrail County. Mr. Rehak had questions about bonding and the paper work involved. Wade Enget, Mountrail County States Attorney suggested the steps for applying for a bond and advised all the paper work would need to be done again following the new guidelines.

Jack Fladeland – Present for this discussion was Jay Snyder. Mr. Snyder stated Mr. Fladeland didn't give him any information, just called him last night to have him attend this meeting. Mr. Fladeland's temporary housing permit expired April 2015. Mr. Snyder stated 12 people live out there now and they are working on getting rid of the old junk trailers. Wade Enget, Mountrail County States Attorney stated it was important that Jack Fladeland sit down with the Planning & Zoning staff to develop a plan. Mr. Snyder stated would let Mr. Fladeland know.

MBI temporary housing – Present for this discussion was Miles Ryan who wished to discuss future plans for temporary housing in the SE¼ of 23-156-93. MBI has one conditional use permit expiring August 2016 and a second one expiring June 2017. Mr. Ryan stated MBI is moving everyone off of the lower lot of their property and selling the trailers that are left. In the north end of the lot, Outlot 2 is where the more permanent structures are placed and explained the size of the permanent structures. Commissioner Ruland stated Mountrail County is moving away from temporary housing as this camp appears to be permanent. Mr. Miles stated MBI is planning to make the housing transitional housing to get the employee's here and give them time to make money to be able to move to an apartment or house in town. Administrator Longmuir stated Planning & Zoning staff has met with Mr. Ryan and MBI is moving towards making this a mobile home park. The dilemma is mobile home parks are open to the public. Mr. Ryan stated would like to keep this a private park as access is right by their offices. Mountrail County States Attorney Enget stated that is something that can be considered perhaps with a variance. Mr. Ryan showed picture of the park and stated they won't be having RV's in their area. The Planning and Zoning Board stated they like what they see and MBI's plan looks workable.

Ames Construction/Roger Evans – Pit Release - Assistant Administrator Lisa Lee stated was in contact with Mr. Evans has he has stated the pit is reclaimed to his satisfaction.

Motion made by Commissioner Sorenson, seconded by Commissioner Weisenberger to release the bond for Ames Construction/Roger Evan on a 10 acre, more or less, tract of land described as that part of the NE¼NE¼NE¼ lying North of the RR Section 23, Township 156 North, Range 93 West (Manitou Township) as the project has been completed. Upon roll call, all present voted yes. Motion carried

Stanley Blaisdell RV Park – present for this discussion was Lisa Jameson, on-site manager of the RV Park. Doug Goodall, managing partner, was present by conference call. Administrator Longmuir referenced a handout from Mr. Goodall that each of the Board members had received. Mr. Goodall's site drawing outlined using the RV section of the park for seasonal living and the remaining spaces would be for more permanent living, such as mobile homes. He stated the site drawing is the master plan and they will be doing the plan in sections. Mr. Goodall explained lot sizes and parking areas. Wade Enget, Mountrail County States Attorney advised the use of lot sizes using rural recreation zoning. Commissioner Sorenson advised the use of residential lot district lot sizes. The dilemma for this plan is the mobile homes surround the RV section of the park, which makes it difficult to zone correctly. Commission Ruland stated most times the RV Park has a dedicated section from the mobile home park which also help for taxation. Tax Director Lori Hansen stated RV trailers are not taxed, so it doesn't matter if the two are mixed as far as taxation. Commission Ruland stated since RV living was going to be seasonally, how would that be regulated if the RV's are mixed in with the mobile homes? Commissioner Sorenson suggested two zoning area's to cover both RV's and mobile homes. The lots size for each of the zoning areas was discussed. Mr. Goodall stated rural recreational lot size is not feasible for this park as the park cannot get any bigger. Mr. Goodall suggested a new plan to split the property down the middle. The access road is a township road and there is a 75' easement on both sides of the road. Commissioner Ruland asked if the campers were far enough from the center of the road. There was discussion about the current plan and it was determined a new plan would need to be developed. It was strongly suggested Mr. Goodall meet with Planning & Zoning staff and Wade Enget, Mountrail County States Attorney.

Wade Enget, Mountrail County States Attorney discussed a request from Green Group about making 89th south bound private, however since it's a section line it will not be closed or turned private.

Attorney Enget advised that changes to the County Liquor ordinance will include a new provision that applicants must be in compliance with all zoning ordinances. The review of all County liquor licenses will be added to the Planning and Zoning meeting every December. We will be able to read about this new ordinance after the June 21th County Commissioners meeting.

Also the Board was brought up to date on the Terry Jones case.

Zoning Ordinance - Wade Enget, Mountrail County States Attorney discussed the seasonal time for rural recreations RV. It was determined time frame would be April 1 to November 30. Also discussed was the change from surety bond to cash bond or letter of credit. Administrator Longmuir discussed requiring an age of mobile homes in the other zoning districts. Only the residential district has an age limit for mobile homes at this time. There was discussion regarding the proposed fencing portion of the ordinance. It was decided to allow chain link fence in a residential zone with agricultural districts being exempt from this fencing portion of the ordinance. Administrator Longmuir stated would like to publish in June to be presented at the June 27th 2016 Planning and Zoning meeting.

Moved by Commissioner Ruland, second by Commissioner Wienbar to allow chain link fences in the residential zoning ordinance and to publish all the ordinance to be presented at the June 27th 2016 Planning and Zoning meeting. Upon roll call, all present voted yes. Motion carried.

Administrator Longmuir discussed changes to the Subdivision Resolution that should make the lot sizes more workable. Commission Ruland asked about fee schedule changing due to all the exceptions being requested. Wade Enget, Mountrail County States Attorney discussed the handout with the suggested lot size changes. Attorney Enget advised the Planning & Zoning Board that the County Commissioners set the fee schedule.

Moved by Commissioner Ruland, second by Commissioner Wienbar to publish the Subdivision Resolution with the Mountrail County Subdivision Resolution to be presented to the Planning and Zoning board at the June 27th 2016 meeting. Upon roll call, all present voted yes. Motion carried.

Chairman Hovda adjourned the meeting.

The next regular meeting of the Mountrail County Planning & Zoning Board is Monday, June 27th 2016 at 8:30 am at the Mountrail County South Complex, 8103 61st St. NW Stanley, ND 58784.

Accepted and approved this 27th day of June 2016.

Roger Hovda, Chairman
Mountrail County
Planning & Zoning Commission

Liz Hollowell
Administrative Assistant
Planning & Zoning