

PROCEEDINGS OF THE MOUNTRAIL COUNTY PLANNING AND ZONING COMMISSION  
Monday, June 23, 2014

The Mountrail County Planning and Zoning Commission met on Monday, June 23, 2014 at the Mountrail County South Complex with the following voting members present: Rosemarie Bieri, Arlo Borud, Roger Hovda, David J. Hynek, Michael Hynek, Trudy Ruland, and Gary Weisenberger. Members absent were Chase Lindberg and Darrell Salter. Also present were Terry Mathson, new representative from District 4, Lori Hanson, Mountrail County Tax Equalization Director, Wade Enget, Mountrail County State's Attorney, Teresa Captain, Mountrail County Auditor's Office and Lisa Lee, Mountrail County Assistant Zoning Administrator/Planner.

Chairman M. Hynek called the meeting to order at 8:30 a.m.

Terry Mathson was introduced. Terry will be replacing Darrell Salter, who has stepped down as the representative from Commissioner District #4.

Chairman M. Hynek called the 8:30 a.m. public hearing to order regarding the zoning request filed by Wm. D. Scepaniak Inc., with concurrence from Philip E. & Judy D. Hegstad, landowners for a conditional use permit to use land zoned agricultural to mine gravel on a 27.50 acre, more or less, tract of land described as Government Lot 8, Section 6, Township 158 North, Range 92 West (Powers Township). Present for this discussion was Joseph Scepaniak, representing Wm. D. Scepaniak Inc. Staff reported the bond and road hall agreement with Powers Lake Township had been received. Mr. Scepaniak presented three certified mail return receipt cards from the adjacent landowners. He reported they have another gravel pit in Mountrail County.

Moved by Commissioner D. Hynek, seconded by Commissioner Hovda to approve the conditional use permit request filed by Wm. D. Scepaniak Inc., with concurrence from Philip E. & Judy D. Hegstad, landowners, to use land zoned agricultural to mine gravel on a 27.50 acre, more or less, tract of land described as Government Lot 8, Section 6, Township 158 North, Range 92 West (Powers Township) requiring road haul agreement with Powers Lake Township regarding maintenance, dust control and a reclamation bond in the amount of \$50,000 as Wm. D. Scepaniak Inc. has met all criteria as set forth in Article IV, Section IV, Paragraph E, Items 1 through 6 of the Mountrail County Zoning Ordinance and is contingent upon the provision Wm. D. Scepaniak Inc. 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 M. Hynek called the 8:35 a.m. public hearing to order regarding the zoning request filed by Sundre Sand & Gravel Inc. with concurrence from Harlan P. Lee, landowner, for a conditional use permit to use land zoned agricultural to mine gravel on an 80 acre, more or less, tract of land described as E $\frac{1}{2}$ NE $\frac{1}{4}$  Section 19, Township 152 North, Range 88 West (Plaza Township). Present for this discussion was Dave Abel representing Sundre Sand & Gravel Inc. Staff reported there was no road haul agreement for this project since it accesses on to ND Highway 23 and the bond in the amount of \$50,000 had been received. Location of the actual gravel permit was discussed.

Moved by Commissioner Borud, seconded by Commissioner Hovda to approve the conditional use permit filed by Sundre Sand & Gravel Inc. with concurrence from Harlan P. Lee, landowner, to use land zoned agricultural to mine gravel on an 80 acre, more or less, tract of land described as E $\frac{1}{2}$ NE $\frac{1}{4}$  Section 19, Township 152 North, Range 88 West (Plaza Township) requiring a \$50,000 reclamation bond as Sundre Sand & Gravel Inc. has met all criteria as set forth in Article IV, Section IV, Paragraph E, Items 1 through 6 of the Mountrail County Zoning Ordinance and is contingent upon

the provision Sundre Sand & Gravel Inc. complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes, motion carried.

Moved by Commissioner Borud, seconded by Commissioner Weisenberger to approve the minutes of the May 27, 2014 Planning & Zoning meeting as presented. There was discussion regarding the special conditions for the special oil waste landfills. Upon roll call vote all present voted yes.

Chairman M. Hynek called the 8:40 public hearing to order regarding the zoning request filed by Scott & Nancy Meiers for a variance to draw slough water for fracking on the SE $\frac{1}{4}$ SW $\frac{1}{4}$  Section 28, Township 156 North, Range 92 West (Ross Township). Present for this discussion was Scott Meiers. Staff reported they had received a copy of the State water permit and the certified mail return receipt card from the adjacent landowner. Mr. Meiers stated the company is planning on moving the water by pipeline.

Moved by Commissioner D. Hynek, seconded by Commissioner Weisenberger to approve the variance request filed by Scott & Nancy Meiers to draw slough water for fracking on the SE $\frac{1}{4}$ SW $\frac{1}{4}$  Section 28, Township 156 North, Range 92 West (Ross Township) as per the terms and conditions of State of North Dakota Temporary Water Permit SWC Project No. 1400A Permit Number ND2014-15454 as Scott & Nancy Meiers have met the criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is contingent upon Scott & Nancy Meiers complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes motion carried.

Moved by Commissioner D. Hynek, seconded by Commissioner Borud to approve building permits number 1749 through 1763. Upon roll call vote all present voted yes.

Chairman M. Hynek called the 8:45 a.m. public hearing to order regarding the zoning request filed by Michael R. & Dottie L. Hanson for an amendment to the Mountrail County Zoning Map to rezone a 9 acre, more or less, tract of land described as Outlot 1 of the S $\frac{1}{2}$ SW $\frac{1}{4}$  less Sublot A of Outlot 1 Section 15, Township 156 North, Range 94 West (Myrtle Township) from agricultural to residential for future development. Present for this discussion was Mike Hanson, Rose Person and Tressy Heinle. Staff reported the plats referred to in this request were filed prior to the subdivision resolution going into effect and two certified mail return receipt cards from the adjacent landowners had been received. Mr. Hanson stated they would be putting a house on this property and possibly a second house on the east side of the property. Rose Person raised concerns regarding septic systems and suggested septic permits should be required to be provided with the application. She has a concern because her property was surveyed and her survey does not agree with the one presented by Mr. Hanson. Tressy Heinle raised a concern about the number of sewer hook ups on the existing property and how many more would be required when the land is developed. Mr. Hanson stated he had a septic permit from Upper Missouri District Health Unit and would bring a copy to the Planning & Zoning Office. Further discussion included septic system requirements, enforcement, and requiring septic permits to be required as part of the building permit application.

Moved by Commissioner Borud, seconded by Commissioner Bieri to present findings of fact from the June 23, 2014 public hearing and make a recommendation to the Mountrail County Commission for approval of the zoning amendment filed by Michael R. & Dottie L. Hanson to rezone a 9 acre, more or less, tract of land described as Outlot 1 of the S $\frac{1}{2}$ SW $\frac{1}{4}$  less Sublot A of Outlot 1 Section 15, Township 156 North, Range 94 West (Myrtle Township) from agricultural to residential for future development as Michael R. & Dottie L. Hanson have met all criteria as set forth in Article IV, Section III, Subsection E of the Mountrail County Zoning Ordinance and is contingent upon Michael R. &

Dottie L. Hanson 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 M. Hynek called the 8:50 a.m. public hearing to order regarding the zoning request filed by Aarmac Transport, with concurrence from Dallas & Deborah Moore, landowners, for an amendment to the Mountrail County Zoning Map to rezone a 10.76 acre, more or less, tract of land described as Outlot 1 of the NE $\frac{1}{4}$ SE $\frac{1}{4}$  Section 24, Township 156 North, Range 89 West (McGahan Township) from agricultural to industrial for the purpose of building and operating a truck repair shop. Present for this discussion was Todd Miller representing Aarmac Transport. Mr. Miller presented three certified mail return receipt requests from the adjacent landowners. He stated this property is currently used as a quarry. Discussion included the future building of 66<sup>th</sup> Avenue NW going straight north to U.S. Highway 2.

Moved by Commissioner D. Hynek, seconded by Commissioner Ruland to present findings of fact from the June 23, 2014 public hearing and make a recommendation to the Mountrail County Commission for approval of the zoning amendment filed by Aarmac Transport, with concurrence from Dallas & Deborah Moore to rezone a 10.76 acre, more or less, tract of land described as Outlot 1 of the NE $\frac{1}{4}$ SE $\frac{1}{4}$  Section 24, Township 156 North, Range 89 West (McGahan Township) from agricultural to industrial for the purpose of building and operating a truck repair shop as Aarmac Transport has met all criteria as set forth in Article IV, Section III, Subsection E of the Mountrail County Zoning Ordinance and is contingent upon Aarmac Transport 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 M. Hynek called the 8:55 a.m. public hearing to order regarding the zoning request filed by Ronald A. & Peggy Stromstad for a conditional use permit to use land zoned rural recreational to place an additional mobile home for guest quarters on a 1.00 acre, more or less, tract of land described as Lot 38, White Earth Cottage Site Township 154 North, Range 94 West (Unorganized Township). Present for this discussion was Ronald & Peggy Stromstad. Staff reported they had received four certified mail return receipt cards and one certified mail receipt from the adjacent landowners. Staff stated they had been made aware of a possible conflict with the U.S. Corps of Engineers regarding jurisdiction in this area and provided a copy of the first deed issued by the Corps which had restrictive covenants on the property. Ronald & Peggy Stromstad said this was the first they were aware of the issue. There was discussion about past issues with the Corps in this area and Attorney Enget stated the County has no jurisdiction in this area. Ronald & Peggy Stromstad requested their application be withdrawn and they receive a refund for the fees they have paid.

Moved by Commissioner Borud, seconded by Commissioner Ruland to allow Ronald A. & Peggy Stromstad to withdraw their zoning request for a conditional use permit to use land zoned rural recreational to place an additional mobile home for guest quarters on a 1.00 acre, more or less, tract of land described as Lot 38, White Earth Cottage Site Township 154 North, Range 94 West (Unorganized Township) and to refund their zoning application fee and building permit fee. Upon roll call vote all present voted yes motion carried.

Chairman M. Hynek called the 9:00 a.m. public hearing to order regarding the zoning request filed by Municipal Shale LLC with concurrence from Michael J. & Kimberly D. Sorenson, landowners, for a conditional use permit to use land zoned agricultural to construct a 199' monopole tower on a 100'x100' tract of land lying within the NE $\frac{1}{4}$  Section 18, Township 154 North, Range 93 West (Rat Lake Township). Staff reported they had received four certified mail return receipt cards from adjacent landowners and John Throckmorton had requested he attend via telephone. Calling Mr.

Throckmorton number, 404-995-1893, resulted in leaving a voice mail message asking him to call the Planning & Zoning Office.

Chairman M. Hynek called the 9:05 a.m. public hearing to order regarding the zoning request filed by Municipal Shale LLC, with concurrence from Michael J. & Kimberly Sorenson, landowners, for a variance to place a 199' monopole tower, which exceeds the 90' maximum height allowable in Mountrail County on a 100'x100' tract of land lying within the NE $\frac{1}{4}$  Section 18, Township 154 North, Range 93 West (Rat Lake Township). Staff reported they had received four certified mail return receipt cards from adjacent landowners and John Throckmorton had requested he attend via telephone. Calling Mr. Throckmorton number, 404-995-1893, resulted in leaving a voice mail message asking him to call the Planning & Zoning Office.

Chairman M. Hynek called the 9:10 a.m. public hearing to order regarding the zoning request filed by Jared Stubbs, with concurrence from Jerry & Richard Jr. Wurtz J; Carroll, Veronica M. Andrew & Ashley Vye; & Denise L. Gordon, landowners, for a variance to draw slough water for fracking on the NW $\frac{1}{4}$  Section 17, Township 152 North, Range 88 West (Plaza Township). No one was present representing Jared Stubbs and no green cards had been received.

Moved by Commissioner Weisenberger, seconded by Commissioner Bieri to table action on the zoning request filed by Jared Stubbs, with concurrence from Jerry & Richard Jr. Wurtz J; Carroll, Veronica M. Andrew & Ashley Vye; & Denise L. Gordon, landowners, for a variance to draw slough water for fracking on the NW $\frac{1}{4}$  Section 17, Township 152 North, Range 88 West (Plaza Township) to the July 28, 2014 Planning & Zoning meeting. Upon roll call vote all present voted yes motion carried.

Chairman M. Hynek called the 9:15 a.m. public hearing to order regarding the zoning request filed by Riley Bros. Construction Inc., with concurrence from Paul & Jean Hendrickson, landowners, for a conditional use permit to use land zoned agricultural to mine clay and other borrow materials on a 40 acre, more or less, tract of land described as SE $\frac{1}{4}$ NE $\frac{1}{4}$  Section 15, Township 153 North, Range 90 West (Wayzetta Township). Staff reported three certified mail return receipt cards had been received for this project. It was noted this is for the Mountrail County Road #3 project.

Moved by Commissioner D. Hynek, seconded by Commissioner Hovda to approve the conditional use permit filed by Riley Bros. Construction Inc., with concurrence from Paul & Jean Hendrickson, landowners, to use land zoned agricultural to mine clay and other borrow materials on a 40 acre, more or less, tract of land described as SE $\frac{1}{4}$ NE $\frac{1}{4}$  Section 15, Township 153 North, Range 90 West (Wayzetta Township) for a term to meet the needs of Mountrail County Road #3 project as Riley Bros. Construction Inc. has met all criteria as set forth in Article IV, Section IV, Paragraph E, Items 1 through 6 of the Mountrail County Zoning Ordinance and is contingent upon Riley Bros. Construction Inc. 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 M. Hynek called the 9:20 a.m. public hearing to order regarding the zoning request filed by Riley Bros. Construction Inc., with concurrence from Arlene C. Zacher Living Trust, landowner, for a conditional use permit to use land zoned agricultural to mine clay and other borrow material on an 80 acre, more or less, tract of land described as S $\frac{1}{2}$ SW $\frac{1}{4}$  Section 2, Township 153 North, Range 90 West (Wayzetta Township). Staff reported five certified mail return receipt cards and one returned letter from adjacent landowners had been received. It was noted this is for the Mountrail County Road #3 project.

Moved by Commissioner Hovda, seconded by Commissioner D. Hynek to approve the conditional use permit filed by Riley Bros. Construction Inc., with concurrence from Arlene C. Zacher Living Trust, landowner, to use land zoned agricultural to mine clay and other borrow material on an 80 acre, more or less, tract of land described as S<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub> Section 2, Township 153 North, Range 90 West (Wayzetta Township) for a term to meet the needs of the Mountrail County Road #3 project as Riley Bros. Construction Inc. has met all criteria as set forth in Article IV, Section IV, Paragraph E, Items 1 through 6 of the Mountrail County Zoning Ordinance and is contingent upon Riley Bros. Construction Inc. complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes motion carried.

Staff reported the receipt of two letters from Austin Township, one letter requesting no man-camps to be allowed in Austin Township and one letter regarding no fresh or salt water lines in Austin Township without proper monitoring. Consensus of the Board was to acknowledge receipt of the letters and the second letter should be forwarded to the North Dakota Industrial Commission for their consideration.

Staff reported Section18 LLC at the Tuesday, June 17<sup>th</sup> County Commissioners meeting asked for the conditional use permit to change the distance from an occupied residence from 2,640 feet to 1,000. The Mountrail County Board of Commissioners stated this request would need to be addressed by the Planning & Zoning Board.

Staff provided a copy of an email from Levi D. Andrist, Vogel Law Firm, regarding the pending conditional use permit for Green Group Holdings.

Chairman M. Hynek called the 9:25 a.m. public hearing to order regarding the conditional use permit filed by Riley Bros. Construction Inc., with concurrence from Arlene C. Zacher Living Trust, landowner, for a conditional use permit to use land zoned agricultural to mine clay and other borrow material on an 80 acre, more or less, tract of land described as N<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub> Section 2, Township 153 North, Range 90 West (Wayzetta Township). Staff reported four certified mail return receipt cards from adjacent landowners had been received. It was noted this is for the Mountrail County Road #3 project. Present for this discussion was Spencer Goodman, Forman, Riley Bros Construction Inc.

Moved by Commissioner Borud, seconded by Commission D. Hynek to approve the conditional use permit filed by Riley Bros. Construction Inc., with concurrence from Arlene C. Zacher Living Trust, landowner, to use land zoned agricultural to mine clay and other borrow material on an 80 acre, more or less, tract of land described as N<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub> Section 2, Township 153 North, Range 90 West (Wayzetta Township) for a term to meet the needs of the Mountrail County Road #3 project as Riley Bros Construction Inc. has met all criteria as set forth in Article IV, Section IV, Paragraph E, Items 1 through 6 of the Mountrail County Zoning Ordinance and is contingent upon Riley Bros Construction Inc. 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 M. Hynek called the 9:30 a.m. public hearing to order regarding the subdivision review application filed by Greg Rugland for an 8.71 acre, more or less, plat to be known as Outlot 1 of the W<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub> Section 11, Township 155 North, Range 90 West (Burke Township). Staff reported this plat has been reviewed by the plat review committee which has recommended approval and the certified mail return receipt request from the adjacent landowner had been received.

Moved by Commissioner D. Hynek, seconded by Commissioner Borud to approve the 8.71 acre, more or less, plat to be known as Outlot 1 of the W<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub> Section 11, Township 155 North, Range

90 West (Burke Township) as Greg Rugland has met all of the requirements of the Mountrail County Land Subdivision Resolution. Upon roll call vote all present voted yes motion carried.

Chairman M. Hynek reconvened the 9:00 a.m. public hearing regarding the zoning request filed by Municipal Shale LLC with concurrence from Michael J. & Kimberly D. Sorenson, landowners, for a conditional use permit to use land zoned agricultural to construct a 199' monopole tower on a 100'x100' tract of land lying within the NE $\frac{1}{4}$  Section 18, Township 154 North, Range 93 West (Rat Lake Township). Staff reported they had received four certified mail return receipt cards from adjacent landowner. Mr. John Throckmorton, representing Municipal Shale LLC attended the meeting via telephone. Mr. Throckmorton stated this free standing monopole tower and is designed to collapse upon itself, like an accordion, in case of a failure.

Moved by Commissioner D. Hynek, seconded by Commissioner Hovda to approve the conditional use permit filed by Municipal Shale LLC with concurrence from Michael J. & Kimberly D. Sorenson, landowners, for a conditional use permit to use land zoned agricultural to construct a 199' monopole tower on a 100'x100' tract of land lying within the NE $\frac{1}{4}$  Section 18, Township 154 North, Range 93 West (Rat Lake Township) as Municipal Shale LLC has met all criteria as set forth in Article IV, Section IV, Paragraph E, Items 1 through 6 of the Mountrail County Zoning Ordinance and is contingent upon Municipal Shale LLC complying with all other regulations of the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes motion carried.

Chairman M. Hynek reconvened the 9:05 a.m. public hearing regarding the zoning request filed by Municipal Shale LLC, with concurrence from Michael J. & Kimberly Sorenson, landowners, for a variance to place a 199' monopole tower, which exceeds the 90' maximum height allowable in Mountrail County, on a 100'x100' tract of land lying within the NE $\frac{1}{4}$  Section 18, Township 154 North, Range 93 West (Rat Lake Township). Staff reported they had received four certified mail return receipt cards from adjacent landowners. Mr. John Throckmorton, representing Municipal Shale LLC attended the meeting via telephone. Mr. Throckmorton said this location was located on the top of a hill to get the maximum height.

Moved by Commissioner Borud, seconded by Commissioner Ruland to approve the variance request filed by Municipal Shale LLC, with concurrence from Michael J. & Kimberly Sorenson, landowners, to place a 199' monopole tower, which exceeds the 90' maximum height allowable in Mountrail County, on a 100'x100' tract of land lying within the NE $\frac{1}{4}$  Section 18, Township 154 North, Range 93 West (Rat Lake Township) as Municipal Shale LLC has met the criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is contingent upon Municipal Shale LLC complying with all other regulations of the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes motion carried.

Chairman M. Hynek called the 9:35 a.m. public hearing to order regarding the continuation of the zoning request filed on November 25, 2013 by Green Group Holdings LLC dba Black Mallard Disposal, with concurrence from Mary Ann Wing, Rose Benson, Joe, Fred & Rae Omar and Zachary Omar, landowners, for a conditional use permit to use land zoned industrial for the operation of a special waste landfill on a 320 acre, more or less, tract of land described as the SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$  Section 5 and N $\frac{1}{2}$ NE $\frac{1}{4}$  Section 8, Township 155 North, Range 92 West (Alger Township). They have requested this issue to be continued until the next meeting. Discussion regarding the access road coming off 59<sup>th</sup> Street, concerns raised by the North Dakota Department of Health, appropriateness of this location, and the N $\frac{1}{2}$ NE $\frac{1}{4}$  Section 8 has been dropped from consideration.

Moved by Commissioner D. Hynek, seconded by Commissioner Borud to table action on regarding the continuation of the zoning request filed on November 25, 2013 by Green Group Holdings LLC dba Black Mallard Disposal, with concurrence from Mary Ann Wing, Rose Benson, Joe, Fred & Rae Omar and Zachary Omar, landowners, for a conditional use permit to use land zoned industrial for the operation of a special waste landfill on a 320 acre, more or less, tract of land described as the SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$  Section 5 and N $\frac{1}{2}$ NE $\frac{1}{4}$  Section 8, Township 155 North, Range 92 West (Alger Township) until the July 28, 2014 Planning & Zoning meeting.

Board concerns included the mile setback for special waste oil field landfills, requiring septic permits to accompany the building permit application and the jurisdictional problems in the White Earth Cottage Site.

Chairman Michael Hynek was commended for his eight years of service on the Mountrail County Planning & Zoning Board.

Moved by Commissioner Weisenberger, seconded by Commissioner Hovda to adjourn upon roll call vote all present voted yes, motion carried.

The next regular meeting of the Mountrail County Planning & Zoning Board is to be held on Monday, July 28, 2014 at 8:30 a.m. at the Mountrail County South Complex, 8103 61<sup>st</sup> Street NW, Stanley, ND.

Accepted and approved this 28<sup>th</sup> day of July, 2014

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David J. Hynek, Vice-Chairman  
Mountrail County Planning & Zoning Commission

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Donald W. Longmuir Jr., AICP  
Zoning Administrator