

PROCEEDINGS OF THE MOUNTRAIL COUNTY  
PLANNING & ZONING COMMISSION

Monday, August 22, 2016

The Mountrail County Planning & Zoning Commission met on Monday, August 22<sup>nd</sup> 2016 at the Mountrail County South Complex with the following voting members present: Roger Hovda, Charlie Sorenson, Arlo Borud, Bill Klug, Trudy Ruland, Gary Weisenberger, Linda Wienbar and Chase Lindberg. Absent was Thomas Bieri. Also present were Lori Hanson, Mountrail County 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. Absent were Wade Enget, Mountrail County States Attorney, and Teresa Captain, Mountrail County Deputy Tax Director.

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. Don Longmuir, Planning & Zoning Administrator requested to add an item to the agenda from Barclay Construction LLC for a variance to use land zoned agricultural to draw slough water for hydrostatic testing on a tract of land described as the N½ Section 29, Township 156 Range 90 West (**Palermo Township**) be heard today as all the landowners have signed in agreement. Moved by Commissioner Borud, seconded by Commissioner Ruland to approve the agenda to include one additional agenda item as number 16. 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 William Brandt, landowner, for a conditional use permit to use land zoned residential for multi-family housing unit on a tract of land described as Lots 21 & 22 Block 1 Original Townsite, Palermo, ND (**City of Palermo**). Six certified mail receipts have been received with no other comments on the project.

Present for this hearing was William Brandt. Mr. Brandt stated he built a multi-family home on the lot that was only permitted for a single family home. Commissioner Borud asked about the number of units. Mr. Brandt stated there were three. Commissioner Borud asked if the City of Palermo was okay with that. Mr. Brandt wasn't sure. Chairman Hovda asked about lot size. Commissioner Ruland asked about permits needed. Don Longmuir, Planning & Zoning Administrator stated Mr. Brandt needed a conditional use permit to build a multi-family unit and asked Mr. Brandt if the setbacks were adhered to when the triplex was built. Mr. Brandt stated the setbacks were met. Chairman Hovda asked about available parking. Mr. Brandt stated there is room in the front and the back for parking. Lori Hanson, Mountrail County Tax Director asked if the parking was off the street. Mr. Brandt stated yes. The Board decided a

letter from the City of Palermo approving the triplex would need to be included with Mr. Brandt's request. Lori Hanson, Mountrail County Tax Director stated the triplex is built like a house, just with three separate entrances and dwellings. Tax Director Hanson stated she is sure the City of Palermo is aware of this home.

Moved by Commissioner Borud, seconded by Commissioner Sorenson to table the zoning request filed by William Brandt, landowner, for a conditional use permit to use land zoned residential for multi-family housing unit on a tract of land described as Lots 21 & 22 Block 1 Original Townsite, Palermo, ND (**City of Palermo**) until an approval letter from the City of Palermo is received. Upon roll call, all present voted yes, Motion carried.

Chairman Hovda called the 8:36 a.m. public hearing to order regarding a subdivision review request filed by Jerry & Shirley Pennington, landowners, for a 9.45 acre, more or less, tract of land to be known as Outlot 2 in the NE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 26, Township 152 North, Range 93 West (**Unorganized Township**). One certified mail receipt had been received with no other comments on the project.

Present for this hearing was Jerry Pennington. Mr. Pennington stated his father told the people, which run their horses on the property, they could own it and he is just getting around to getting that done. Mr. Pennington stated the land would stay agricultural and the new owners are not family. Commissioner Weisenberger asked about an access road. Commissioner Ruland stated the property borders a section line and a road can't be built without permission. Mr. Pennington stated there is already a road there and has been for a long time. Chairman Hovda agreed.

Moved by Commissioner Sorenson, seconded by Commissioner Weisenberger to approve a subdivision review request filed by Jerry & Shirley Pennington, landowners, for a 9.45 acre, more or less, tract of land to be known as Outlot 2 in the NE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 26, Township 152 North, Range 93 West (**Unorganized Township**) as Jerry & Shirley Pennington have met all criteria as set forth in Chapter 4, of the Mountrail County Land Subdivision Resolution and is further contingent upon Jerry & Shirley Pennington complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes, Motion carried.

The final plat was signed by Chairman Hovda and given back to Jerry & Shirley Pennington, landowners with instructions to take the original plat to the Mountrail County courthouse to be recorded.

Chairman Hovda called the 8:39 a.m. public hearing to order regarding a zoning request filed by MBI Energy Services, landowners, for a conditional use permit to use land zoned commercial for

transitional employee housing on a 25.04 acre, more or less, tract of land described as Outlot 2 of the NE¼SE¼ Section 23, Township 156 North, Range 93 West (**Manitou Township**). Four certified mail receipts have been received with no other comments received on the project.

Miles Ryan, representing MBI Energy Services, was present for the meeting. Mr. Ryan stated they are working on changing the remaining housing to transitional housing to help their employees come to work and then find their own houses in town later. Commissioner Borud asked the length of the conditional use permit. Don Longmuir, Planning & Zoning Administrator asked Mr. Ryan to explain their plan in more detail. Mr. Ryan stated they are closing out their man camp and moving everything to more permanent units. These units are for their employees when they first come to work for MBI to have a place to live. Then once they earn some money, they would be required to move out and secure their own housing in the community. Lori Hanson, Mountrail County Tax Director asked the length of time that is given to the employee to move out of the transitional housing. Mr. Miles stated six months but that could change if the Board wanted it to. Administrator Longmuir stated he likes the idea that MBI was going to more permanent housing and the Board would need to set a timeline for the conditional use permit as this is not a man camp but more of a mobile home park. Chairman Hovda asked the Board for recommendations of the time frame for the conditional use permit. It was agreed two years and then the company would have a track record of how the housing was working. Commissioner Ruland asked about the space between the units. Mr. Ryan stated there is space between each trailer for parking and if needed, there is room for emergency vehicles. Mr. Ryan also referenced MBI's emergency plan that was included in the Board members packets. Commissioner Borud asked about water and sewer. Mr. Ryan stated MBI has their own well but might change over to Rural Water that is coming in. Commissioner Borud asked for the number of rooms. Mr. Ryan stated 45 total if MBI was 100% full, which they are not at this time. Stated each unit is a stand-alone unit and is clearly numbered. Commissioner Sorenson stated MBI has enough land; they could rezone it to residential if they wanted to.

Moved by Commissioner Wienbar, seconded by Commissioner Ruland to approve the zoning request filed by MBI Energy Services, landowners, for a two (2) year conditional use permit to use land zoned commercial for transitional employee housing on a 25.04 acre, more or less, tract of land described as Outlot 2 of the NE¼SE¼ Section 23, Township 156 North, Range 93 West (**Manitou Township**) as MBI Energy Services has met all the criteria as set forth in Article IV, Section IV in the Mountrail County Zoning Ordinance and is further contingent upon MBI Energy Services 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 8:42 a.m. public hearing to order regarding a zoning request filed by Dakota Energy Resources Corp, with concurrence from Scott Meiers, landowner, to use land zoned agricultural for a variance to pump slough water using a flat hose on a tract of land

described as the SW $\frac{1}{4}$  of Section 28, Township 156 North, Range 92 West (**Ross Township**). Three certified mail receipts have been received with no other written comments. Don Longmuir, Planning & Zoning Administrator stated this water would be used for hydrostatic testing so the water comes back to the point of origin which is different when using it for industrial purposes for fracking as that water must be disposed of at a disposal well. Administrator Longmuir referenced the addendum from Dan Farrell that is different than the variance for fracking.

Mike Childs, representing Dakota Energy Resources Corp, was present for the meeting. Mr. Childs stated the addendum was for the testing and they are still applying to use water for industrial use. Commissioner Ruland asked if the addendum would need its own application. Lisa Lee, Assistant Planning & Zoning Administrator pointed out the State water permit was for the SW $\frac{1}{4}$  of Section 28 and the addendum was for the N $\frac{1}{2}$  of Section 28. Lori Hanson, Mountrail County Tax Director verified with Mr. Childs the industrial water permit was for the SW $\frac{1}{4}$ , therefore the addendum would need its own application as they are two different uses with two different points of diversion in the same slough. Chairman Hovda stated the Board only approves the point of diversion and these are two different locations. Commissioner Ruland stated the adjacent landowners were not notified of the use on the N $\frac{1}{2}$ . Mr. Childs understood the addendum was part of the permit. Commissioner Ruland stated Mr. Childs didn't complete the application like that, only listing SW $\frac{1}{4}$ . Chairman Hovda asked if the same hose was used for both projects. Mr. Child stated no. Commissioner Ruland stated can only permit the SW $\frac{1}{4}$  as that is what the application listed. Chairman Hovda stated the Board will only permit the SW $\frac{1}{4}$ .

Moved by Commissioner Borud, seconded by Commissioner Ruland to approve the zoning request filed by Dakota Energy Resources Corp, in concurrence with Scott Meiers, landowner, to use land zoned agricultural for a variance to pump slough water on a tract of land described as the SW $\frac{1}{4}$  of Section 28, Township 156 North, Range 92 West (**Ross Township**) contingent upon the terms and conditions of the State of North Dakota Temporary Water Permit SWC Project #1400A Permit Number ND2016-17411 expiring July 24, 2017 as Dakota Energy Resources Corp has met all criteria as set forth in Article IV, Section V, of the Mountrail County Zoning Ordinance and is further contingent upon Dakota Energy Resources Corp 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 8:45 a.m. public hearing to order regarding a zoning request filed by Bakken Water Transfer Services Inc., in concurrence with Jorn K Oulie, landowner, for a variance to use land zoned agricultural to pump slough water on a tract of land described as the NE $\frac{1}{4}$  of Section 18, Township 154 North, Range 90 West (**Austin Township**). Nine certified mail receipts have been received with no other comments on the project

Present for this discussion was Mike Childs of Bakken Water Transfer Services Inc. Mr. Child verified same process with flat hose only and the landowner's signature is included.

Moved by Commissioner Sorenson, seconded by Commissioner Ruland to approve a zoning request filed by Bakken Water Transfer Services Inc., in concurrence with Jorn K Oulie, landowner, for a variance to use land zoned agricultural to pump slough water on a tract of land described as the NE $\frac{1}{4}$  of Section 18, Township 154 North, Range 90 West (**Austin Township**) contingent upon the terms and conditions of the State of North Dakota Temporary Water Permit SWC Project #1400A Permit Number ND2016-17361 expiring March 31, 2017 as Bakken Water Transfer Services Inc. has met all criteria as set forth in Article IV, Section V, of the Mountrail County Zoning Ordinance and is further contingent upon Bakken Water Transfer Services Inc. 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 8:48 a.m. public hearing to order regarding a zoning request filed by Bakken Water Transfer Services Inc., in concurrence with Nyhus Farms LLP, Orville Nyhus LLP Manager, landowners, for a variance to use land zoned agricultural to pump slough water on a tract of land described as the W $\frac{1}{2}$  less SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 20, Township 156 North, Range 90 West (**Palermo Township**). Five certified mail receipts have been received with no other comments on the project.

Present for this discussion was Mike Childs of Bakken Water Transfer Services Inc. Mr. Childs stated this is same process as the previous application. Chairman Hovda reminded Mr. Childs the variance is for the length of this State water permit and this one expires in six months. Commissioner Ruland reminded Mr. Childs that he will need to reapply if he is granted another water permit in this location.

Moved by Commissioner Ruland, seconded by Commissioner Wiesenberger to approve a zoning request filed by Bakken Water Transfer Services Inc., in concurrence with Nyhus Farms LLP, Orville Nyhus LLP Manager, landowners, for a variance to use land zoned agricultural to pump slough water on a tract of land described as the W $\frac{1}{2}$ , less SE $\frac{1}{4}$ SW $\frac{1}{4}$ , of Section 20, Township 156 North, Range 90 West (**Palermo Township**) contingent upon the terms and conditions of the State of North Dakota Temporary Water Permit SWC Project #1400A Permit Number ND2016-17481 expiring December 31, 2016 as Bakken Water Transfer Services Inc. has met all criteria as set forth in Article IV, Section V, of the Mountrail County Zoning Ordinance and is further contingent upon Bakken Water Transfer Services Inc. 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 8:51 a.m. public hearing to order regarding a subdivision review request filed by Hiland Partners Holding, LLC in concurrence with Roger L & Michelle R Harstad, landowners, for a 9.068 acre, more or less, tract of land described as an Outlot in the SE¼SE¼ of Section 4, Township 153 North, Range 93 West (**Unorganized Township**). One certified return receipt card was received and no other written comments were received.

Present for the discussion was Myles Fisher of Hiland Partners Holdings, LLC. Mr. Fisher stated the site will be used as a gas compressor site. Commissioner Ruland stated that structure must be 75' from a section line.

Moved by Commissioner Borud, seconded by Commissioner Sorenson to approve a subdivision review request filed by Hiland Partners Holding, LLC in concurrence with Roger L & Michelle R Harstad, landowners, for a 9.068 acre, more or less, tract of land to be known as Outlot 1 in the SE¼SE¼ of Section 4, Township 153 North, Range 93 West (**Unorganized Township**) as Hiland Partners Holding, LLC has met all criteria as set forth in Chapter 4, of the Mountrail County Land Subdivision Resolution and is further contingent upon Hiland Partners Holding, LLC complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes, Motion carried.

The final plat was signed by Chairman Hovda and given back to Myles Fisher of Hiland Partners Holdings, LLC with instructions to take the original plat to the Mountrail County courthouse to be recorded.

Chairman Hovda called the 8:54 a.m. public hearing to order regarding Hiland Partners Holding, LLC in concurrence with Roger L & Michelle R Harstad, landowners, for an amendment to change land zoned agricultural to industrial for the construction of a gas compressor station on a 9.068 acre, more or less, tract of land described as Outlot 1 in the SE¼SE¼ of Section 4, Township 153 North, Range 93 West (**Unorganized Township**) One certified return receipt card was received and no other written comments were received.

Present for the discussion was Myles Fisher of Hiland Partners Holdings, LLC. Commissioner Ruland stated plans show the building only 68 feet from the section line and 75 feet is required. Commissioner Sorenson stated requiring the building to be 75' from section line can be written into the permit.

Mr. Arthur Langved was present to object to the project. Mr. Langved stated he has been ranching there for over fifty years and is concerned about the dust caused by all the traffic due to the pipeline and other oil related vehicles. Mr. Langved stated he has land on both side of the road and every vehicle causes so much dust his cattle can't graze close to the road. Mr. Langved stated this compressor station will attract even more traffic and thinks this project could be

moved away from his property. Chairman Hovda verified where Mr. Langved's property was. Commissioner Ruland stated the Board could require dust control.

Commissioner Borud stated dust control is needed on the road used for Hiland Partners Holding LLC purposes. Chairman Hovda stated Hiland Partners should be in communication with the landowner for the frequency of the dust control applications. Commissioner Borud stated the dust control needs to be more than water. Mr. Fisher stated the dust control will be magnesium chloride.

Moved by Commissioner Sorenson, seconded by Commissioner Klug to present finding of fact from the August 22, 2016 public hearing and make a recommendation to the Mountrail County Commissioners for approval of the zoning request filed by Hiland Partners Holding, LLC in concurrence with Roger L & Michelle R Harstad, landowners, for an amendment to change land zoned agricultural to industrial for the construction of a gas compressor station on a 9.068 acre, more or less, tract of land described as Outlot 1 in the SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 4, Township 153 North, Range 93 West (**Unorganized Township**) contingent upon all buildings being 75' from the section line and dust control using magnesium chloride on a when needed basis as Hiland Partners Holding, LLC has met all criteria as set forth in Article IV, Section III, of the Mountrail County Zoning Ordinance and is further contingent upon Hiland Partners Holding, LLC complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes, Motion carried.

Heather Greenlee, Mountrail County Auditor's Office, gave Myles Fisher of Hiland Partners Holdings, LLC a copy of the amendment public notice that assigned a meeting time and date for the Mountrail County Commissioners to hear Hiland Partners Holdings, LLC zoning request.

Chairman Hovda called the 8:57 a.m. public hearing to order regarding a zoning request filed by Hiland Partners Holding, LLC in concurrence with Roger L & Michelle R Harstad, landowners, for conditional use permit to use land zoned industrial to construct a gas compressor station on a 9.068 acre, more or less, tract of land described as Outlot 1 in the SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 4, Township 153 North, Range 93 West (**Unorganized Township**). One certified return receipt card was received and no other written comments were received.

Present for the discussion was Myles Fisher of Hiland Partners Holdings, LLC. The conditional use permit is required in an industrial zone when a compressor station is going to be built.

Moved by Commissioner Ruland, seconded by Commissioner Wienbar to approve a zoning request filed by Hiland Partners Holding, LLC in concurrence with Roger L & Michelle R Harstad, landowners, for conditional use permit to use land zoned industrial to construct a gas compressor station on a 9.068 acre, more or less, tract of land described as Outlot 1 in the SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 4, Township 153 North, Range 93 West (**Unorganized Township**)

contingent upon all buildings being 75' from the section line, dust control using magnesium chloride on a when needed basis and the amendment being approved as Hiland Partners Holding, LLC has met all criteria as set forth in Article IV, Section IV, of the Mountrail County Zoning Ordinance and is further contingent upon Hiland Partners Holding, LLC 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 8:59 a.m. public hearing to order regarding a zoning request filed by Curtis Trulson, landowner, for a variance to use land zoned agricultural to draw slough water for hydrostatic testing on a tract of land described as the W½ of Section 25, Township 156 North, Range 92 West (**Ross Township**). Two certified mail receipts have been received and no other comments have been received.

Present for this hearing was Curtis Trulson. Chairman Hovda asked distance the water was going. Mr. Trulson stated about 1000 feet and this is for the Dakota Access pipeline. Lisa Lee, Assistant Planning & Zoning Administrator asked if there was a company associated with doing this testing as a company, Tetra Technologies, called about the same diversion point. Mr. Trulson stated they are the company doing the pumping and they will test the water coming out of the slough and before it goes back in the slough. Patrick McGarry with Bakken Assets Management stated they are handling the filling of all the matrix tanks. With this case, Bakken Assets Management is working with the landowner, Mr. Trulson, to use local water instead of WAWSA to fill those tanks. They will hydrostatic test the tank and then put the water back into the slough as per their discharge permit with the State of North Dakota Water Commission. Chairman Hovda asked if this was basically pressure testing the tanks. Mr. McGarry stated yes and helps the tanks settle.

Moved by Commissioner Sorenson, seconded by Commissioner Ruland to approve a zoning request filed by Curtis Trulson, landowner, for a variance to use land zoned agricultural to draw slough water for hydrostatic testing on a tract of land described as the W½ of Section 25, Township 156 North, Range 92 West (**Ross Township**) contingent upon the terms and conditions of the State of North Dakota Temporary Water Permit SWC Project #1400A Permit Number ND2016-17492 expiring December 31, 2016 as Curtis Trulson has met all criteria as set forth in Article IV, Section V, of the Mountrail County Zoning Ordinance and is further contingent upon Curtis Trulson complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes, Motion carried.

Mr. Trulson asked if they could start to pump the water now as time is of the essence since the Board has approved the variance and not wait for the paperwork. Don Longmuir, Planning & Zoning Administrator stated technically when the Planning and Zoning Board approves an application, it's approved; the paperwork will come.



Chairman Hovda called the 9:02 a.m. public hearing to order regarding a zoning request filed by Roger Arredondo of Select Energy Services, in concurrence with Diane Kjos Revocable Trust, Andrew Kjos, landowners, for a variance to use land zoned agricultural to pump slough water on a tract of land described as the W $\frac{1}{2}$  of Section 13, Township 155 North, Range 93 West (**Debing Township**). Six certified mail receipts have been received and no other comments have been received.

Present for this hearing was Roger Arredondo of Select Energy Services. Mr. Arredondo stated they are pumping frack water via a flat hose and permission has been received from the landowners.

Moved by Commissioner Wienbar, seconded by Commissioner Klug to approve a zoning request filed by Roger Arredondo of Select Energy Services, in concurrence with Diane Kjos Revocable Trust, Andrew Kjos, landowners, for a variance to use land zoned agricultural to pump slough water on a tract of land described as the W $\frac{1}{2}$  of Section 13, Township 155 North, Range 93 West (**Debing Township**) contingent upon the terms and conditions of the State of North Dakota Temporary Water Permit SWC Project #1400A Permit Number ND2016-17492 expiring December 31, 2016 as Select Energy Services has met all criteria as set forth in Article IV, Section V, of the Mountrail County Zoning Ordinance and is further contingent upon Select Energy Services 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 9:05 a.m. public hearing to order regarding a zoning request filed by Roger Arredondo of Select Energy Services, in concurrence with Michael Sorenson, landowner, for a variance to use land zoned agricultural to pump slough water on a tract of land described as the NE $\frac{1}{4}$  of Section 12, Township 155 North, Range 93 West (**Debing Township**). Two certified mail receipts have been received with no other comments on the project

Present for this hearing was Roger Arredondo of Select Energy Services. Mr. Arredondo stated this is the same type of project as before. Chairman Hovda reminded Mr. Arredondo the variance permit is in effect as long as the state water permit is. Mr. Arredondo asked about the frequency of having to apply. He asked if each time the state water permit expires, do they have to start the application process with Mountrail County again? Commissioner Ruland and Don Longmuir, Planning & Zoning Administrator stated yes. Mr. Arredondo asked if this might change. Chairman Hovda stated it has to stay this way as its best for the County. Commissioner Ruland touched on the reasons why. Commissioner Sorenson thinks the problem is getting the State Water Permit and the time of the Planning & Zoning meetings to synchronize. Commissioner Sorenson stated perhaps the applicant can apply with Mountrail County and if the state water permit has not come in by the time the meeting is held, the application would be tabled until the water permit comes in. Commissioner Ruland stated the

Board's concern is the community around the slough and how the use impacts them. Mr. Arredondo stated that if he would start the application process after applying for the State Water permit but before the permit is issued, it would help streamline the permit process. Don Longmuir, Planning & Zoning Administrator stated the application could be tabled or language would be written in the permit making it contingent upon receiving the state water permit. Mr. Arredondo assured the Board that Select Energy does the actual work, they are not a broker. Commissioner Weisenberger reminded that if the permit is contingent on the state water permit, no pumping could start until that state water permits was received by Planning & Zoning. Mr. Arredondo stated he understood.

Moved by Commissioner Borud, seconded by Commissioner Ruland to approve a zoning request filed by Roger Arredondo of Select Energy Services, in concurrence with Michael Sorenson, landowner, for a variance to use land zoned agricultural to pump slough water on a tract of land described as the NE¼ of Section 12, Township 155 North, Range 93 West (**Debing Township**) contingent upon the terms and conditions of the State of North Dakota Temporary Water Permit SWC Project #1400A Permit Number ND2016-17368 expiring December 31, 2016 as Select Energy Services has met all criteria as set forth in Article IV, Section V, of the Mountrail County Zoning Ordinance and is further contingent upon Select Energy Services 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 9:08 a.m. public hearing to order regarding a zoning request filed by Roger Arredondo of Select Energy Services, in concurrence with Roger Sorenson, landowner, for a variance to use land zoned agricultural to pump slough water on a tract of land described as the SE¼ of Section 7, Township 155 North, Range 92 West (**Alger Township**). Five certified mail receipts have been received with no other comments on the project

Present for this hearing was Roger Arredondo of Select Energy Services. Mr. Arredondo stated they will be pumping frack water via a flat hose and permission has been received from the landowners.

Moved by Commissioner Klug, seconded by Commissioner Weisenberger to approve a zoning request filed by Roger Arredondo of Select Energy Services, in concurrence with Roger Sorenson, landowner, for a variance to use land zoned agricultural to pump slough water on a tract of land described as the SE¼ of Section 7, Township 155 North, Range 92 West (**Alger Township**) contingent upon the terms and conditions of the State of North Dakota Temporary Water Permit SWC Project #1400A Permit Number ND2016-17590 expiring December 31, 2016 as Select Energy Services has met all criteria as set forth in Article IV, Section V, of the Mountrail County Zoning Ordinance and is further contingent upon Select Energy Services 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 9:10 a.m. public hearing to order regarding a zoning request filed by John Klien of Barclay Construction LLC in concurrence with Gravel Products Inc., landowners, for a variance to use land zoned agricultural to pump slough water for hydrostatic testing on a tract of land described as the N½ of Section 29, Township 156 North, Range 90 West (**Palermo Township**). Don Longmuir, Planning & Zoning Administrator stated each Board member received a packet at their seat with the application. Administrator Longmuir stated he checked with Wade Enget, Mountrail County States Attorney about moving forward with this application and was advised that Barclay Construction LLC would need to get signatures from the adjoining landowners. Copies of those signatures are included in the packet. Barclay Construction LLC has all other necessary permits to do the hydrostatic testing. It was brought to the attention of Planning & Zoning that Barclay Construction LLC didn't have a variance permit and Mr. Klien was contacted. Mr. Klien came to the Planning & Zoning office within the hour. Administrator Longmuir stated this is a timely issue for Phillips 66 tanks and that is the reason for this move.

Present for this hearing was John Klien of Barclay Construction LLC. Mr. Klien apologized for overlooking the variance permit requirement and thanked Planning & Zoning for their assistance. Mr. Klien stated they are doing hydrostatic testing by pulling water from the slough, filtering the water, pump it into the tank, then filter it again and pump it back into the slough. Chairman Hovda asked if the tank was diked. Mr. Klien stated it is at 125% of capacity. This testing is to check for leaks and to test the floating roof. Chairman Hovda was concerned the hearing wasn't published. Don Longmuir, Planning & Zoning Administrator stated this project is different from earlier variances as this water is going back into the slough.

Moved by Commissioner Wienbar, seconded by Commissioner Sorenson to approve a zoning request filed by Barclay Construction LLC in concurrence with Gravel Products Inc., landowners, for a variance to use land zoned agricultural to pump slough water for hydrostatic testing on a tract of land described as the N½ of Section 29, Township 156 North, Range 90 West (**Palermo Township**) contingent upon the terms and conditions of the State of North Dakota Temporary Water Permit SWC Project #1400A Permit Number ND2016-17650 expiring October 31, 2016 as Barclay Construction LLC has met all criteria as set forth in Article IV, Section V, of the Mountrail County Zoning Ordinance and is further contingent upon Barclay Construction LLC complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes, Motion carried.

Moved by Commissioner Borud, seconded by Commissioner Ruland to approve the minutes from the July 25<sup>th</sup> 2016 Planning and Zoning Meeting as presented. Upon roll call, all present voted yes, Motion carried.

Moved by Commissioner Weisenberger, seconded by Commissioner Wienbar to approve the building permits # 1952 - 1955. Upon roll call, all present voted yes. Motion carried.

Board Concerns: Commissioner Weisenberger stated the Planning & Zoning Board should stick to the ordinances regardless of an applicant's failure to plan or if the project is already done. He stated there is a reason water permits are for a six month term now, instead of a 12 month term. Commissioner Weisenberger stated applying for a variance should follow the ordinance. Commissioner Ruland agreed.

The Board discussed the zoning request filed by William Brandt.

Commissioners Borud advised the Planning & Zoning Board that the Planning & Zoning ordinances were passed with the Letter of Credit amount being decreased to \$125,000.00.

Commissioner Wienbar asked about the Parameter horse issue. Don Longmuir, Planning & Zoning Administrator stated this issue was turned over to Wade Enget, Mountrail County States Attorney.

Discussion was held on housing in agricultural zoning and possibly adding rural residential zoning.

Commissioner Sorenson shared with the Board the article in the Bismarck Tribune about an Alexander North Dakota landfill is accepting old RV's for just \$150.00.

Staff Concerns:

Ames Construction/Roger Evan – NW¼ Lying N of the RR & the NW¼NE¼ 24-156-93 80ac +/- Request to release bond# 106066205 (Reclaimed to owner's satisfaction)

Moved by Commissioner Weisenberger, seconded by Commissioner Ruland to approve releasing the bond # 106066205 for Ames Construction/Roger Evan – NW¼ Lying N of the RR & the NW¼NE¼ 24-156-93 80ac +/- as pit is reclaimed to owner's satisfaction. Upon roll call, all present voted yes. Motion carried

Planning & Zoning advised the Board that they will get a copy of the new Zoning Ordinances that were passed by the Mountrail County Commission at their August 16, 2016 meeting as quickly as they are recorded. The ordinances are valid as of the date they were approved by the Commissioners. As soon as the ordinances are recorded, they will be distributed and posted online.

Commissioner Ruland asked about selecting their own passwords for the portal to maintain security. Don Longmuir, Planning & Zoning Administrator stated anyone that wanted to change their password could just let Planning & Zoning know and we will get it changed.

Chairman Hovda adjourned the meeting.

The next regular meeting of the Mountrail County Planning & Zoning Board is Monday, September 26<sup>th</sup> 2016 at 8:30 am at the Mountrail County South Complex, 8103 61<sup>st</sup> St. NW Stanley, ND 58784.

Accepted and approved this 26<sup>th</sup> day of September 2016.

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Roger Hovda, Chairman  
Mountrail County  
Planning & Zoning Commission

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Liz Hollowell  
Administrative Assistant  
Planning & Zoning