MiNUTES

**Mountrail County Planning & Zoning Commission**

**October 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, Trudy Ruland, Gary (Fritz) Weisenberger, Roger Hovda, Joan Hollekim, Arlo Borud, Tom Bieri and Zachary Gaaskjolen.

**Also present:** Lori Hanson, Mountrail County Tax Director, Stephanie Pappa, Mountrail County Auditor, and Melissa Vachal, Planning & Zoning Administrator, Linda Wienbar, Planning & Zoning Assistant, Jana Hennessy, Mountrail County Road & Bridge, and Wade Enget, Mountrail County States Attorney,

**Absent:** Board member, Thomas Nash

**Public attending:** Todd and Victoria Hiller, Breanna Ware, Cally Westcoat with EOG Resources, Jaret Wirtz with H2O Connections, LLC, Brian Rice, James Moen with Moen Family LLLP, Max Schriock with Aggregate Construction Inc, Quintin Lee, Bonita Hornberger, Dolores Lee, David Abel with Sundre Sand & Gravel Inc, Allison Parizek, Ali Kory, Paula LaPrise, Jerilyn Lange, Craig & Jennette Anderson, and Hyrum Zitting with Green Acres Subdivision.

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| **Approval of Agenda** |

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

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| 8:35 a.m. *Variance* |  Rocky and Adriana Fladeland, Landowner   |

**Location:** Outlot 1 of SW ¼ Section 24, Township 156 North, Range 93 West (Manitou Township)

**Parcel #: 20-0012901**

**Number of Certified mailing receipts provided:** 1 Certified Receipt Received

**Purpose**: For a variance request of a 175’ setback from Hwy 2 rather than the required 250’setback from US Hwy 2 for the construction of a new home where the existing house was on farmstead.

**Discussion:** With this being in the same location as a home that was removed off earlier in the month, the Planning and Zoning Board didn’t see this being an issue.

**Motion:** Moved by Commissioner Weisenberger, seconded by Commissioner Hovda, to approve the zoning request filed by Rocky and Adriana Fladeland for a variance request for a 175’ setback from US Hwy 2 rather than the required 250’ setback for the construction of a new house in an existing yard on a tract of land described as Outlot 1 of SW 1/4 Section 24, Township 156 North, Range 93 West (Manitou Township) as Rocky and Adriana Fladeland have met all criteria as set forth in Article IV, Section V, of the Mountrail County Zoning Ordinance and is further contingent upon Rocky and Adriana Fladeland 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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| 8:40 a.m. *Variance* |  Todd And Victoria Hiller, Leaseholder   |

**Location:** Lease Lot 12, Block 16 Van Hook/Traynor Park Section 30, Township 152 North, Range 91 West (**Van Hook Township**).

**Parcel #: 45-9203950**

**Number of Certified mailing receipts provided:** 20 Certified Receipts Received

**Purpose**: For a variance request of a 0’ setback west end of lot (front), 7-1/2’ east end (alley) and 7-1/2’ on both sides of the lot for the construction of a garage (34’ x 50’) and a (28’ x 60’) mobile home

**Present:** Todd and Victoria Hiller

**Discussion:** Commissioner Borud asked if the zero setback was along the 80’ road. Victoria Hiller was in attendance of the meeting. Mrs. Hiller stated that the drawing that was submitted is exactly what they are wanting to do. Commissioner Hollekim questioned the rear alley setback. Commissioner Hollekim wants this setback to be 10’ from the lot line if adjacent lot holders are in compliance. Mrs. Hiller stated that their garage would be farther back. The concern is the request is for a 7 ½’ rear setback and by Planning and Zoning Ordinance its 10’ rear setback is required. The other garages on both sides are following the 10’ or more from their lot line. Commissioner Weisenberger stated we are too late in the game to start making them line things up. Chairman Sorenson got clarification that a variance is normally given for one item not several. Chairman Sorenson stated to Mrs. Hiller that the neighboring lots have their garages off of their lot line at least 10 feet. With this Planning and Zoning would remove Hiller’s 7 ½’ setback request and keep the rear setback from the alley as 10’ and grant the zero setback from the front which adjoins the 80’ road and leave the side setbacks as is what the zoning ordinance reflects. Mrs. Hiller stated the neighbor on the back side of their lot has a shed that is right on the lot line and the ramp is on the road. This is why they are asking for the 7 ½’ rear setback as there’s not much room to get around it. Chairman Sorenson explained that there isn’t much Planning and Zoning can do about the shed since taking over planning and zoning for Van Hook within the last year, this is an existing issue. This is why Planning and Zoning is wanting to avoid problems like this moving forward.

**Motion:** Moved by Commissioner Hollekim, seconded by Commissioner Weisenberger, to approve the zoning request filed by Todd and Victoria Hiller for a variance request for a 0’ front setback rather than the required 25’ front setback and to keep the 10’ rear setback for the construction of a garage (34’ x 50’) and a (28’ x 60’) mobile home on a tract of land described as Lease Lot 12, Block 16 Van Hook/Traynor Park Section 30, Township 152 North, Range 91 West (**Van Hook Township**) as Todd and Victoria Hiller have met all criteria as set forth in Article IV, Section V, of the Mountrail County Zoning Ordinance and is further contingent upon Todd and Victoria Hiller complying with all other terms and conditions of the Mountrail County Zoning Ordinance. The 0’ front setback was allowed as the front street is 80’ in width. Upon roll call, all present voted yes. Motion carried.

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| 8:45 a.m. *Variance* |  Breanna and Jeffery Ware , Landowner   |

**Location:** Lot 1(less the west 30’) Block 10, Original Townsite of Palermo City. (**Palermo City**).

**Parcel #: 57-0013500**

**Number of Certified mailing receipts provided:** 5 Certified Receipts Received

**Purpose**: For a variance request of a 2009 FEMA trailer which is older than the 8 years allowed by ordinance.

**Present:** Breanna Ware

**Discussion:** Chairman Sorenson un-tabled the building permit that was tabled on August 24, 2020 meeting. Breanna Ware was in attendance to talk to the board regarding her request. Mrs. Ware stated that the trailer is in place, and wasn’t aware that when she applied for the building permit back in August it hadn’t been approved. Mrs. Ware stated it will be a home for her mother being she is a traveling CNA. Lori Hanson Mountrail County Tax Director stated that the existing trailer had been moved and image given to the board is showing an existing trailer on the GIS from 2019. Mrs. Hanson stated that the smaller building is the old town hall. Commissioner Hovda asked if the land between the lot and the city belongs to the city. Mrs. Hanson stated that is correct. Commissioner Hovda asked if the new trailer is in the same place as the older trailer. Mrs. Ware stated it’s a smaller trailer and that the Palermo City Auditor came out and measured from the center of the street and the GIS is off as they are well inside of their lot lines by the information from the City Auditor. Commissioner Hovda stated that this variance is for the age of the trailer and not the lot lines correct? Wade Enget, Mountrail County States Attorney asked that we get something in writing from the Palermo City Auditor stating that someone did measure and that the trailer is within the owner’s lot lines. Mrs. Ware stated that this FEMA trailer has been updated a lot. Mrs. Ware stated that compared to many of the other trailers within the City of Palermo this trailer looks a lot nicer and that this one is much newer. Mrs. Ware understands that the board doesn’t want junk being placed within the city. Mrs. Ware stated she lives south of this lot and that they removed a trailer that was in the 70’s and have cleaned this lot up to make it presentable. Mrs. Ware wants to do her part to improve the area as well. Commissioner Hollekim stated that compared to other trailers within the City of Palermo this one looks very nice. Commissioner Hovda stated he drove through Palermo and that this is one of the nicer ones in this area.

**Motion:** Moved by Commissioner Hovda, seconded by Commissioner Borud, to approve the zoning request filed by Breanna and Jeffery Ware for a variance request for a 2009 FEMA trailer which is older than the 8 years allowed by ordinance to be placed on a tract of land described as Lot 1(less the west 30’) Block 10, Original Townsite of Palermo City. (**Palermo City**) as Breanna and Jeffery Ware have met all criteria as set forth in Article IV, Section V, of the Mountrail County Zoning Ordinance and is further contingent upon Breanna and Jeffery Ware getting a letter from the City of Palermo stating they are within the lot lines and owners complying with all other terms and conditions of the Mountrail County Zoning Ordinance. The letter will be turned into the Planning and Zoning Administrator Upon roll call, all present voted yes. Motion carried.

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| 8:50 a.m. *Variance* |  EOG Resources, Inc, Landowner   |

**Location:** Outlot 3 of NW1/4 Section 10, Township 152 North, Range 90 West (**Parshall Township**).

**Parcel #: 44-0005020**

**Number of Certified mailing receipts provided:** 4 Certified Receipts Received

**Purpose**: For a variance request of a 100’ setback rather than the required 150’ setback from the west section line for an existing building on site.

**Present:** Cally Westcoat with EOG Resources and Ryan Soros

**Discussion:** Melissa Vachal, Planning and Zoning Administrator stated to the Planning and Zoning Board, that EOG Resources, Inc had a previous variance that was given a 5 year term to allow the building to have a 100’ setback for a building from the west section line and that EOG Resources needs a permanent variance for the life of the site for a 100’ setback for the building. Cally Wescoat with EOG Resources Inc was in attendance along with Ryan Soros for operational questions. Chairman Sorenson stated he remembers giving the 5 year variance back in 2015. Chairman Sorenson asked Commissioner Hovda if there was a road by this site. Commissioner Hovda stated that with the development of the compressor stations, that EOG has made improvements to the section line. EOG has done a nice job cleaning the section line up and that it’s not a drivable road but allows the farmer to get into the pasture. Chairman Sorenson stated the biggest concern is if someone would want to build up the road and having the ability of building without being encumbered. Commissioner Hovda also stated that the right of way jogs in and out on this section line on the GIS website. Lori Hanson made clarification on to why this has been happening. When plats are done with the outlots, it’s really not acquired 75’ right of way, it’s still a 33’ right of way, and it’s just the way to show the setback by the surveyor on the plat.

**Motion:** Moved by Commissioner Hovda, seconded by Commissioner Hollekim, to approve the zoning request filed by EOG Resources Inc for a variance request for a 100’ setback from west section line rather than the required 150’ setback for site building on a tract of land described as Outlot 3 of NW1/4 Section 10, Township 152 North, Range 90 West (**Parshall Township**) as EOG Resources Inc has met all criteria as set forth in Article IV, Section V, of the Mountrail County Zoning Ordinance and is further contingent upon EOG Resources Inc 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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| 8:55 a.m. *Temporary Use Permit* |  H2O Connections, LLC, ApplicantRobert and Lavonne Patten, Landowners Dale Patten POA for Robert and Lavonne Patten  |

**Location:** NWNW Section 36, Township 154 North, Range 91 West (**Sikes Township**).

**Parcel #: 32-0019900**

**Number of Certified mailing receipts provided:** 5 Certified Receipts Received

**Purpose**: For a temporary water depot for transferring industrial water by lay flat hose.

**Present:** Jaret Wirtz with H2O Connections, LLC and adjacent landowners, Craig and Jennette Anderson

**Discussion:** Jaret Wirtz was in attendance of the hearing. Chairman Sorenson asked Mr. Wirtz to explain what he is asking to have approved. Mr. Wirtz stated that they are proposing to take water from another slough by lay flat hose. This is a separate slough in the NW ¼ that they are applying for. Chairman Sorenson asked Mr. Wirtz if there was activity before today in terms of pumping water. Mr. Wirtz explained that there was a bit of confusion and previously H2O Connections, LLC, had permits when Heidi Kory was in the Planning and Zoning Office. With the understanding that they could run under the same conditional use permit because they were in the W1/2 of the section. It was brought to our attention by the Planning and Zoning staff that they needed two separate ones. The sloughs are right next to each other, almost adjoining but they were told H2O Connections, LLC, needed two separate permits and couldn’t do anything more until they followed procedure and got approval. Commissioner Hollekim asked if they have a permit for this section already. Melissa Vachal, Planning and Zoning Administrator, stated that they do hold a permit in the SW1/4 of this section for a larger slough. Commissioner Hollekim asked who the landowner was. Dale Patten is Power of Attorney for Robert and Lavonne Patten. Patten Water Holdings in which Dale is POA of Patten Water Holdings and controls the water side of things. That’s why you see both names. Dale Patten is the son. The POA paperwork will need to be submitted. Commissioner Wiesenberger asked about the other permit and what the dates were on it. Melissa Vachal, Planning and Zoning Administrator, stated that the renewal that is also being presented later today will bring both requests, to be for the full west half of this section. But as of right now Mr. Wirtz needs to come to the board for the NW1/4 and the renewal will be for the SW1/4 of this section. Jennette Arndt Anderson approached the Planning and Zoning Board as the land owner to Section 35 and stated they own the bulk of this slough. Anderson’s made a contract with Kraken Oil to pull water from their water source and that they have already gotten a permit to pull water and share with Niemitalo’s that are the landowners above their section. Anderson’s went out to check to see how things were being done and saw that someone was pulling water from the other side. Mrs. Anderson was thinking they were in the wrong slough and went over to see the permit and permit was not for it. Legally, the permit granting process wasn’t properly followed and the water was taken prior to submitting the application and she stated Mrs. Anderson knew this because they were on site and pumping water on 9-5-20. Mrs. Anderson feels that it’s assumable that they pulled from their water depot first, and that the water would have receded on their diversion point. H2O Connections, LLC, didn’t go to Planning and Zoning for the permit to go into effect. Anderson’s would hope that the Planning and Zoning Board would not issue this permit due to these violations as they feel everyone should have to follow the same rules by county and state. H2O Connections, LLC pulled their permit amount already, so it’s a done deal already. Chairman Sorenson stated to Mrs. Anderson that Planning and Zoning has already given them a permit. Mrs. Anderson stated that they have the permit for the Section 35 NE ¼. Mr. Wirtz stated again that there was confusion from before with the conditional use that they had already and this was brought to their attention that it wasn’t for the W1/2, that it was only for the SW1/4 slough. Kraken Oil did pull majority of the water from Anderson’s and there was water still to cover her permit and still water in the slough if they needed more. Once H2O Connections, LLC got notification that they needed separate conditional use permits they pulled the rest of it from her slough portion, in which he stated that she sold 540,000 barrels out of there which is much less than what was pulled from H2O Connections state permit. It was a miscommunication with Heidi Kory in which was never caught, and that a separate permit was needed. Mr. Wirtz wasn’t trying to get away with anything by not filling out the application, as the process isn’t hard. Mr. Wirtz also doesn’t see anyone else protesting this because other land owners have water. Chairman Sorenson asked if the confusion was on the water permit itself. Commissioner Hollekim also stated she could see how the confusion could happen as the state permit stated the W1/2 but the point of diversion where we approved it was the SW1/4. Mrs. Anderson stated that they have never been made aware of the SW1/4 permit. Mrs. Anderson actually called him on the 5th and stated to him that he was pulling from the wrong slough. Mr. Wirtz stated that all permits with the State Water Commission are all valid. It was just a miscommunication with Planning & Zoning with the requested acreage. Mrs. Anderson stated three years ago, Bob Patten was worried that they all share the large slough as well. Mrs. Anderson stated that they would leave the larger slough as they were asking to permit the NE of section 35 slough and leave the other one alone. There was more water a few years ago. Mrs. Anderson stated that they were never made aware that H2O Connections ever permitted the other slough in the SW1/4. Commissioner Hollekim stated we would have to go back to see who was notified for the other permit. Mr. Wirtz stated that the State Water Commission doesn’t require notification, only Planning and Zoning. Mr. Wirtz stated that on the old permit they would’ve gotten a notice when he had to apply for the first application. Everything has been done properly. Mrs. Anderson asked if they can get a retroactive permit after they have pulled. Commissioner Hollekim stated that there’s been times that people have come in after the fact. Craig Anderson stated; point being adjacent landowners, that Mr. Wirtz had pulled water before he had applied, and they didn’t have the opportunity to address this board if they had a problem with that. Commissioner Weisenberger asked what the other variance approved stated. Chairman Sorenson stated that the state permit stated the W1/2 of the section 36 but that the board approved the point of diversion. Approval was for SW1/4. Pumping in the NW1/4 was not in concurrence with the variance. This would be a violation to our zoning. Mr. Wirtz stated that paperwork was submitted right away to resolve the misunderstanding with Planning and Zoning due to the W1/2. Chairman Sorenson stated the max fine would be $1500 that could be assessed to this violation. Mrs. Anderson stated that she feels H2O Connections, LLC is well versed in applying for applications. Commissioner Hovda stated that the variance is for one spot and it’s for the point of diversion and if that diversion point changes then a new variance would be required. And it’s always been part of the policy that they don’t get to have the W1/2 it’s to the point of diversion. Mr. Wirtz stated that there are times that you may need to move to get to the water. Commissioner Hovda stated it wouldn’t be to a different slough. Chairman Sorenson asked if there were any other discussion.

**Motion:**  No motion was made. Chairman Sorenson stated that this would fail due to the lack of interest. Mr. Wirtz asked for clarification to the motion and Chairman Sorenson stated with no interest it has failed. Mr. Wirtz may reapply but with no interest to move forward with this issue nothing was acted upon.

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| 9:00 a.m. *Temporary Use Permit* |  H2O Connections, LLC, ApplicantCurt and Summer Meyer, Landowners  |

**Location:** SE1/4 Section 27, Township 155 North, Range 94 West (**Unorganized Township**).

**Parcel #: 28-0012200**

**Number of Certified mailing receipts provided:** 4 Certified Receipts Received

**Purpose**: For a temporary water depot for transferring industrial water by lay flat hose.

**Present:** Jaret Wirtz with H2O Connections, LLC

**Discussion:** Chairman Sorenson asked Jaret Wirtz with H2O Connections, LLC to explain his purpose of use. Mr. Wirtz described that they are taking over this slough from another company. All documentation has been filled out along with all notifications. There was an application but no State permit submitted. Mr. Wirtz explained that the other company has one and that the State permit will expire either the end of October or the end of November. Commissioner Hovda stated to Mr. Wirtz that he doesn’t have the permit in hand yet, just the application. The state will not issue one until the other one expires. The State Water Commission is just waiting to send it until the other one expires.

**Motion:**  Commissioner Weisenberger moved to table the application from H2O Connections, LLC,to the call of the chair to wait until H2O Connections. LLC, has the permit from the State, seconded by Commissioner Borud. Upon roll call, all present voted yes. Motion carried.

Will also need signatures of Summer Meyer as well. All landowners need to sign.

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| 9:05 a.m. *Temporary Use Permit* |  H2O Connections, LLC, ApplicantCurt and Summer Meyer, Landowners  |

**Location:** NE1/4 Section 21, Township 155 North, Range 94 West (**Unorganized Township**).

**Parcel #: 28-0009500**

**Number of Certified mailing receipts provided:** 3 Certified Receipts Received

**Purpose**: For a temporary water depot for transferring industrial water by lay flat hose.

**Present:** Jaret Wirtz with H2O Connections, LLC

**Discussion:** Commissioner Hollekim stated that Mr. Wirtz doesn’t appear to have a State water permit issued yet. Mr. Wirtz stated that he is still waiting for the State Water Commission to issue it.

**Motion:**  Commissioner Hollekim moved to table the application from H2O Connections, LLC, call of the chair to wait until the water permit is presented and needing Summer Meyer’s signature, second by Commissioner Hovda. Upon roll call, all present voted yes. Motion carried.

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| 9:10 a.m. *Variance* |  Brian Rice, Landowner   |

**Location:** N1/2NE1/4NE1/4 Section 18, Township 156 North, Range 94 West (**Myrtle Township**).

**Parcel #: 21-0009900**

**Number of Certified mailing receipts provided:** 2 Certified Receipts Received

**Purpose**: For a variance request to place a pole barn with a variance of 50’ rather than the 150’ setback from center of the section line.

**Present:** Brian Rice

**Discussion:** Chairman Sorenson asked Brian Rice to explain what his plan is and where this will be set. Brian stated that the plan is to place a pole barn by the grain bins that are in this yard. Old Hwy 2, also referred to as County Route 2, is on the South side of this property and that the road into this yard is a dead end road into an oil well site. It’s a non-used road and that Mr. Rice owns all the land around this property. Commissioner Hollekim asked if the County owns the 100’ right of way. Mr. Rice stated that was his question that never was answered. Commissioner Hollekim stated a while back Mr. Rice was going to have it platted out so the County could deed over the right of way. Mr. Rice stated that was the case but then talked to Don Longmuir, past Planning and Zoning Administrator, and was told it had been taken care of and he didn’t have to worry about it. Wade Enget, Mountrail County States Attorney, stated that Mr. Rice will need to petition the County Commissioners to have this brought in front of them to have the right of way platted out. Wade Enget, Mountrail County States Attorney, stated he will work with Mr. Rice to get this taken care of.

**Motion:**  Commissioner Borud moved to table the application from Brian Rice to the call of the chair until Brian Rice and Wade Enget get the ownership clarified Motion seconded by Commissioner Hovda. Upon roll call, all present voted yes. Motion carried.

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| 9:15 a.m. *Conditional Use Permit* |  Aggregate Construction, Inc, ApplicantNDSSL Trust Lands, Landowner  |

**Location:** NE1/4NW1/4 North of the Road Section 16, Township 158 North, Range 92 West (**Powers Township**).

**Parcel #: 05-0008501**

**Number of Certified mailing receipts provided:** 3 Certified Receipts Received

**Purpose**: purpose of mining gravel, 80 acres

Present: Max Schriock with Aggregate Construction Inc

**Discussion:** Tabled due to not getting in contact with Max Schriock with Aggregate Construction, Inc. Chairman Sorenson un-tabled. Chairman Sorenson asked Mr. Schriock to explain briefly of what he is asking for. Mr. Schriock, stated the location is on State land and they also have a contract with Burke County. This pit will be a new pit and will be done after crushing. Commissioner Sorenson stated this is State owned land and reclamation will be done very well. Lori Hanson, Mountrail County Tax Director, stated that does cover two parcels and asking where they will be mining. NE1/4 is off limits because of an archaeology find. Mr. Schriock, stated it will be NENW on north side of the road adjacent to the trees. She was just questioning the drawing that was submitted. NWNE part of the drawing hasn’t been given the certificate of authority so if Aggregate Construction Inc., were to get this he would come back for another conditional use permit. Mr. Schriock didn’t find out about the archeology find until later into October after the site drawing was submitted with the application. Mr. Schriock did submit a Letter of Credit with his application. This permit would be for five years.

**Motion:** Moved by Commissioner Borud, seconded by Commissioner Gaaskjolen, to approve the zoning request filed by Aggregate Construction, Inc. with concurrence from NDSSL Trust Lands, landowner for a conditional use permit to use land zoned agricultural for the purpose of mining gravel on 80 acres or less, tract of land located in the NE1/4NW1/4 North of the Road of Section 16, Township 158 North, Range 92 West (**Powers Township**) for five (5) years (which ends on 2025 with the lease agreement) contingent upon maintaining a reclamation agreement with the State and renewed yearly for the 5 year period as well as a road haul agreement with Township, providing road maintenance, and dust control of the roads and pit area when necessary, as Aggregate Construction, Inc. with concurrence from NDSSL Trust Lands, landowner has met all criteria as set forth in Article IV, Section IV in the Mountrail County Zoning Ordinance and is further contingent upon Aggregate Construction, Inc. with concurrence from NDSSL Trust Lands, 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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| 9:20 a.m. *Conditional Use Permit* |  Aggregate Construction Inc, ApplicantNDSSL Trust Lands, Landowner  |

**Location:** South of the road and North of the Creek line in the NW1/4 Section 16, Township 158 North, Range 92 West **(Powers Township)**

**Parcel #: 05-0008501**

**Number of Certified mailing receipts provided:** 4 Certified Receipts Received

**Purpose**: For mining gravel. 80 acres

Present: Max Schriock with Aggregate Construction Inc,

**Discussion:** Chairman Sorenson asked Max Schriock with Aggregate Construction, Inc. to describe what he is coming to the board for. There are two archaeological finds so they will need to leave a buffer zone from where they mine. Mr. Schriock stated that the work will stay north of the creek. Mr. Schriock, stated it was an existing gravel pit years ago. Commissioner Hollekim asked if it had been ever reclaimed and Mr. Schriock, stated it had been reclaimed. Mr. Schriock did submit a Letter of Credit with his application. This permit would be for five years

**Motion:** Moved by Commissioner Borud, seconded by Commissioner Hollekim, to approve the zoning request filed by Aggregate Construction, Inc. with concurrence from NDSSL Trust Lands, landowner for a conditional use permit to use land zoned agricultural for the purpose of mining gravel on a 80 acre or less, tract of land located South of the road and North of the Creek line in the NW1/4 Section 16, Township 158 North, Range 92 West **(Powers Township)** for five (5) years (which ends on 2025 with the lease agreement) contingent upon maintaining a reclamation agreement with the State and renewed yearly for the 5 year period as well as a road haul agreement with Township, providing road maintenance, and dust control of the roads and pit area when necessary, as Aggregate Construction, Inc., with concurrence from NDSSL Trust Lands, landowner has met all criteria as set forth in Article IV, Section IV in the Mountrail County Zoning Ordinance and is further contingent upon Aggregate Construction Inc., with concurrence from NDSSL Trust Lands, 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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| 9:25 a.m. *Conditional Use Permit* |  Aggregate Construction Inc., ApplicantTimothy & Rhonda Vaagenes, Landowner  |

**Location:** W1/2NW1/4 Section 25, Township 156 North, Range 89 West (**McGahan Township**).

**Parcel #:** **16-0012500**

**Number of Certified mailing receipts provided:** 5 Certified Receipts Received

**Purpose**: For mining gravel 80 acres

**Present:** Max Schriock with Aggregate Construction Inc, and adjacent landowners Quintin Lee, Bonita Hornberger and Dolores Lee

**Discussion:** Chairman Sorenson asked for Max Schriock with Aggregate Construction Inc. to describe what is being needed of the board. Mr. Schriock, stated that Aggregate Construction Inc. will be mining an existing pit. Not much left to mine it’s mainly the stockpiles that need to be removed. Quintin Lee voiced he’s the adjacent landowner and wants Aggregate Construction Inc. to have this pit surveyed as he feels that they have crossed over the line. Mr. Schriock stated that they have only gone up to the fence. Quintin Lee stated that the fence isn’t on the property line. Mr. Schriock stated there isn’t a fence on the north. Mr. Schriock also stated he’s on the West half of the NW. Mr. Lee clarified that this isn’t the application that he has issues with. Commissioner Hollekim stated to Mr. Lee that we need to follow through with this permit before discussing the permit he has concerns on. Mr. Lee then stated he’s ok with this permit, but might be good to still have surveyed. Commissioner Hollekim stated that this would be for a five year permit.

**Motion:** Moved by Commissioner Hollekim, seconded by Commissioner Borud, to approve the zoning request filed by Aggregate Construction Inc., with concurrence from Timothy and Rhonda Vaagenes, landowners for a conditional use permit to use land zoned agricultural for the purpose of mining gravel on a 80 acre or less, tract of land located in the W1/2NW1/4 Section 25, Township 156 North, Range 89 West (**McGahan Township**) for five (5) years (which ends on 2025 with the lease agreement) 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 road haul agreement with Township, providing road maintenance, and dust control of the roads and pit area when necessary, as Aggregate Construction Inc., with concurrence from Timothy and Rhonda Vaagenes, landowners has met all criteria as set forth in Article IV, Section IV in the Mountrail County Zoning Ordinance and is further contingent upon Aggregate Construction Inc., with concurrence from Timothy and Rhonda Vaagenes, 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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| 9:30 a.m. *Conditional Use Permit* |  Aggregate Construction Inc, ApplicantTimothy & Rhonda Vaagenes, Landowner  |

**Location:** S1/2SW1/4 Section 24, Township 156 North, Range 89 West (**McGahan Township**).

**Parcel #:** 16-0011900

**Number of Certified mailing receipts provided:** 5 Certified Receipts Received

**Purpose**: For mining gravel 29.7 acres

**Present:** Max Schriock with Aggregate Construction Inc, and adjacent landowners Quintin Lee, Bonita Hornberger and Dolores Lee

**Discussion:** Chairman Sorenson asked Max Schriock with Aggregate Construction Inc., if this would be a new pit. Mr. Schriock stated yes it would be a new pit. Quintin Lee asked if this would be on Vaagenes land? Mr. Schriock explained that there is a project coming up with Hwy 2. Quintin Lee expressed his boundary concern that work had been done on Dallas and Debbie Moore’s land. Quintin Lee wants Aggregate Construction, Inc. to have a boundary survey done to the prior pit. Quintin Lee also expressed his concern that water was being pumped over onto his land from the pit. Mr. Schriock stated that he didn’t recall this. Bonita Hornberger stated that two years ago there was water being pumped into the Lee pit from the Moore pit. Commissioner Hollekim stated that this should not continue to happen. Chairman Sorenson asked Mr. Schriock if he would be in communication with the Lee’s regarding their concerns. Mr. Schriock stated that this is the first he has heard of this but he certainly is willing to work with them. Mr. Schriock was asked by Quintin Lee to have it surveyed. Quintin Lee stated everything else he doesn’t have a problem with. This permit would be for five years. Letter of Credit was submitted with the application.

**Motion:** Moved by Commissioner Borud, seconded by Commissioner Weisenberger, to approve the zoning request filed by Aggregate Construction Inc. with concurrence from Timothy and Rhonda Vaagenes, landowners for a conditional use permit to use land zoned agricultural for the purpose of mining gravel on 29.7 acres more or less, tract of land located in the S1/2SW1/4 Section 24, Township 156 North, Range 89 West (**McGahan Township**) for five (5) years (which ends on 2025 with the lease agreement) 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 road haul agreement with Township, providing road maintenance, and dust control of the roads and pit area when necessary, as Aggregate Construction Inc., with concurrence from Timothy and Rhonda Vaagenes, landowners has met all criteria as set forth in Article IV, Section IV in the Mountrail County Zoning Ordinance and is further contingent upon Aggregate Construction Inc., with concurrence from Timothy and Rhonda Vaagenes, 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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| 9:35 a.m. *Conditional Use Permit* | Moen Family LLLP, LandownerJames Moen, General Manager  |

**Location:** NW1/4NW1/4 Section 11, Township 154 North, Range 89 West (**Oakland Township**).

**Parcel #: 30-0004500**

**Number of Certified mailing receipts provided:** 0 Certified Receipts Received. None required as Mr. Moen is sole landowner within the 150’ zoning requirement

**Purpose**: For removal of gravel stockpile.

**Present:** James Moen with Moen Family LLLP

**Discussion:** Chairman Sorenson asked James Moen to describe what will be happening. Mr. Moen commented that Pinky’s who mined the gravel at this location declared bankruptcy. Robby Edwards bid this stockpile from the bank. Mr. Moen explained that he would need a conditional use to haul the gravel out of this pit. Commissioner Hollekim asked how long it will take for Mr. Edwards to haul it off. Mr. Moen stated it could take a while to have it removed for the townships that need gravel. Commissioner Hollekim stated that she doesn’t feel that it should take five years to remove. Commissioner Hovda stated that if it takes five years than it does. Commissioner Hollekim feels three years would be a good timeline.

**Motion:**  Moved by Commissioner Hovda, seconded by Commissioner Borud, to approve the zoning request filed by Moen Family LLLP landowner for a conditional use permit to use land zoned agricultural for the purpose of allowing Edwards Gravel to remove gravel stockpiles from a gravel pit that was mined by Pinky’s, tract of land located in the NW1/4NW1/4 Section 11, Township 154 North, Range 89 West (**Oakland Township**) for five (5) years contingent and a nontransferable haul only agreement only to Edwards Sand and Gravel with a road haul agreement with Township, providing road maintenance, and dust control of the roads and pit area when necessary, as Moen Family LLLP, landowner, has met all criteria as set forth in Article IV, Section IV in the Mountrail County Zoning Ordinance and is further contingent upon Moen Family LLLP, landowner complying with all other terms and conditions of the Mountrail County Zoning Ordinance. Due to Moen Family LLLP, landowner applying for conditional use would take on the responsibility for reclaiming the pit and will not be required to have the letter of credit of $125,000.00. Upon roll call, all present voted yes. Motion carried.

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| 9:40 a.m. *Conditional Use Permit* |  Sundre Sand & Gravel, ApplicantHarlan and Janene Lee, Landowner  |

**Location:** E1/2NE1/4 Section 19, Township 152 North, Range 88 West (**Plaza Township**).

**Parcel #:** 42-0008600

**Number of Certified mailing receipts provided:** 8 Certified Receipts Received

**Purpose**: For mining gravel 60 acres

**Present:** David Abel with Sundre Sand & Gravel Inc

**Discussion:** David Abel with Sundre Sand & Gravel was in attendance and stated that they were given a permit in 2014 and didn’t get any mining done so Sundre Sand & Gravel Inc., are reapplying for the same area. Commissioner Borud asked how they would get the gravel from the pit to Highway 23. Where the gravel is, Sundre Sand & Gravel has a lease on the other side in Section 20. Mr. Abel with Sundre Sand & Gravel, stated that the plan is to stockpile in the NWNW1/4 of Section 20 and then will reclaim Section 19. Commissioner Hovda stated that there is no road there and that it’s only a trail between the pasture and field that’s there. Commissioner Hovda also asked if there was an approach onto the highway. As shown on attached drawing to the application, there is an approach.

**Motion:** Moved by Commissioner Hovda, seconded by Commissioner Borud, to approve the zoning request filed by Sundre Sand & Gravel, with concurrence from Harlan and Janene Lee, landowners for a conditional use permit to use land zoned agricultural for the purpose of mining gravel on a 60 acre more or less, tract of land located in the E1/2NE1/4 Section 19, Township 152 North, Range 88 West (**Plaza Township**) for five (5) years contingent upon a $125,000.00 letter of credit payable to Mountrail County and changing the wording with the letter of credit and renewed yearly for the 5 year period as well as a road haul agreement with Township, providing road maintenance, and dust control of the roads and pit area when necessary, as Sundre Sand & Gravel, with concurrence from Harlan and Janene Lee, landowners has met all criteria as set forth in Article IV, Section IV in the Mountrail County Zoning Ordinance and is further contingent upon Sundre Sand & Gravel, with concurrence from Harlan and Janene Lee, 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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| 9:45 a.m. *Conditional Use Permit* |  Sundre Sand & Gravel, ApplicantRandall and Robert Myers, Landowner  |

**Location:** W1/2NW1/4 and E1/2NW1/4 Section 20, Township 152 North, Range 88 West (**Plaza Township**).

**Parcel #:** 42-0008600

**Number of Certified mailing receipts provided:** 5 Certified Receipts Received

**Purpose**: mining gravel 80 acres

**Present:** David Abel with Sundre Sand & Gravel Inc

**Discussion:** David Abel with Sundre Sand & Gravel Inc., stated that this is the section that borders the Lee land of section 19. Commissioner Hollekim stated that she would like to see that these are approved only for the 5 year term use. Lori Hanson, Mountrail County Tax director questioned the number of acres. Mr. Abel stated that the drawing that was turned in shows where he wants to mine. Letter of Credit was submitted with the Application. Mr. Abel will be making a note to have the County added as a second beneficiary onto the Letter of Credit along with the legal description that is to pertain to the Letter of Credit being submitted with application.

**Motion:**  Moved by Commissioner Hollekim, seconded by Commissioner Hovda, to approve the zoning request filed by Sundre Sand & Gravel, with concurrence from Marjorie Myers, Life Estate to Randall Myers and Robert Myers, 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 located in W1/2NW1/4 and E1/2NW1/4 Section 20, Township 152 North, Range 88 West (**Plaza Township**) for five (5) years contingent upon a $125,000.00 letter of credit payable to Mountrail County and changing the wording with the letter of credit and renewed yearly for the 5 year period as well as a road haul agreement with Township, providing road maintenance, and dust control of the roads and pit area when necessary, as Sundre Sand & Gravel Inc., with concurrence from Marjorie Myers, Life Estate to Randall Myers and Robert Myers, landowners has met all criteria as set forth in Article IV, Section IV in the Mountrail County Zoning Ordinance and is further contingent upon Sundre Sand & Gravel Inc., with concurrence from Marjorie Myers, Life Estate to Randall Myers and Robert Myers, 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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| 9:50 a.m. *Conditional Use Permit* | Allison R. Parizek, Landowner  |

**Location:** Sublot Q of Outlot 1 of the S1/2SE1/4 of Section 19, Township 152 North, Range 91 West (**Van Hook Township**).

**Parcel #: 45-0010118**

**Number of Certified mailing receipts provided:** 7 Certified Receipts Received

**Purpose**: In-Home Salon (Shoreline Salon)

**Present:** Allison Parizek and Ali Kory

**Discussion:** Looking at the Van Hook minutes before the County Planning and Zoning took over that she would need to visit with the Board. Allison Parizek was in attendance and explained that Ali Kory is running her business Shoreline Salon out of the basement of the house. The Van Hook Township didn’t express issues with them running the business but wanted to make sure they were in compliance so they were ok with filing a conditional use. Wade Enget, Mountrail County States Attorney, explained the terms of home occupations. Ali Kory has been living in the home as well for the last four years. Allison Parizek explained that Ali Kory is certified by the State and has a review each year from the state. Commissioner Hollekim asked if there was anyone in objection to seeing this and there was no one contesting.

**Motion:** Moved by Commissioner Hollekim, seconded by Commissioner Borud, to approve the zoning request filed by Allison R. Parizek, landowner, for a nontransferable conditional use permit to use land zoned residential for the purpose of a in home salon business name Shoreline Salon run by family resident, Ali Kory, on tract of land located in Sublot Q of Outlot 1 of the S1/2SE1/4 of Section 19, Township 152 North, Range 91 West (**Van Hook Township**) as Allison R Parizek, landowner has met all criteria as set forth in Article IV, Section IV in the Mountrail County Zoning Ordinance and is further contingent upon Ali Kory, with concurrence from Allison R Parizek, landowner complying with all other terms and conditions of the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes. Motion carried.

**Approval of Minutes of the September 28, 2020 Meeting**

 Moved by Commissioner Borud, seconded by Commissioner Hollekim, to approve the Minutes of the September 28, 2020 meeting as corrected. Upon roll call, all present voted yes. Motion carried.

**Temporary Water Applications: Approved**

**Temporary Water Applications – Non-Transferable**

H2O Connections Permit Number – ND2020-20272

Pumping of industrial water; Patten Water Holdings, LLP, Robert Patten, Landowner. SW1/4 Section 36, Township 154 North, Range 91West Unnamed slough for 160.0 acre-feet.

Kenneth Littlefield Permit Number – ND2020-20242

Future water use. N1/2SW1/4 Section 13, Township 153N, Range 91W, pumping water from slough as a renewal from 2019; 170.0 acre-feet.

**Building Permits**

**2139** Breanna and Jeffery Ware, Landowner-Parcel#57-0013500- Lot 1 Block 10 Less the west 30’ Original Townsite of the City of Palermo (Palermo City) FEMA Trailer, 2009(older than 8 years) Chairman Sorenson, un-tabled building permit from the September 28, 2020 meeting

**2146**-Todd and Victoria Hiller, Applicant/Lease-Holder-Parcel#45-9203950 Lot 12 Block 16 NW Section 30, Township 152 North, Range 94 West (Van Hook/Traynor Park) 28x68 mobile home and 34x50 garage. **Motion:** Commissioner Hollekim moved to approve this permit subject to what was approved earlier in the variance permit. Seconded by Commissioner Weisenberger. Upon roll call, all present voted yes. Motion Carried.

**2147**-Roger Blestrud, Applicant/Landowner-Parcel#35-0013300 Lot 18 White Earth River Cottage Site, part of the SW1/4SE1/4 Section 26, Township 154 North, Range 94 West (Unorganized Township) 32x44 Garage.

**2148** –Brian Rice, Applicant/Landowner-Parcel#21-0009900 N1/2NE1/4NE1/4, Section 18, Township 156 North, Range 94 West (Myrtle Township) 40 x 102 Pole Barn. Due to needing platting done this was tabled from the list of permits and stated it would be revisited once ownership for ROW was looked at.

**2149**- Targa Badlands LLC, Applicant- Scott D Fladeland, landowner – Parcel # 33-0013700 Government lots 1 and 2 and E1/2NW1/4, Section 30, Township 154 North, Range 92 West (Brookbank Township) 6’x7’ Storage Shed

**Motion:** Moved by Commissioner Weisenberger, seconded by Commissioner Borud, to approve building permits 2139, 2147, and 2149. Upon roll call, all present voted yes. Motion Carried.

**ONGOING BUSINESS:**

Stanley RV:

Gravel Pits: will remain on

Sylvia Fladeland:

J & J Oilfield

Terry Jones:

White Earth Bay: ongoing law suit.

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| **Staff Concerns** |

**Discussion:** Administrator Melissa Vachal, brought forward the SRF Contract for the Planning and Zoning ordinance rewrite. Mrs. Vachal stated that she presented the contract to the County Commissioners and they have moved to use the $12,500, from the P & Z budget for 2021 along with the remaining $31,205 from the Commissioner Contingency fund for a grand total $43,705.00. This total will provide Planning and Zoning to cover the base contract amount being $15,709 plus all of the Optional tasks along with the two additional tasks. A committee consisting of Planning & Zoning Administration and staff along with States Attorney, Chairman of Planning & Zoning board along with someone from the Van Hook Park Board preferably the Chairman as to cover all parks and Steve Littlefield with the Van Hook Park Association.

**Green Acres Subdivision:** This subdivision is not in compliance. Melissa stated that she and Linda Wienbar of Planning and Zoning Office drove out to this subdivision to verify exactly what County Road & Bridge Engineer, Jana Hennessy, was addressing on her punch list. We met Hyrum Zitting hired by Tioga Properties and Rob Olson on site. We went over the culverts, the slope of the roads and ditches and that they do not meet the plans given. Planning & Zoning staff also went over with Hyrum the issue with the flooding of Grant Kallberg’s property and what needs to be done about removing the approach that was to be removed in 2018. Planning & Zoning staff stated to Green Acres group that their Letter of Credit is also not in compliance with our zoning ordinance, original one was for $135,000.00. Hyrum Zitting is their main construction person. Mrs. Vachal stated to the board that the Administration office would need the board to decide what the letter of credit amount needs to be placed at so that Green Acres can become in compliance and move forward with Engineer Hennessy’s punch list. Commissioner Hovda stated maybe a $250,000.00 dollar amount should be given. Wade stated to the board that the CFO, Daryl Gemar with Tioga Properties feels that the amount should be less beings the improvements they have already done to the subdivision. Commissioner Weisenberger asked if a drainage plan was asked for a while back. Administrator Melissa Vachal stated we got the as-builts sent to us. The issue still remains with the drainage. Administrator Melissa Vachal stated that Grant Kallberg wants to make sure that when the approach gets removed that it’s not going to mess up the drainage on his part of the ditch or property. Commissioner Hollekim asked Jana Hennessy, Mountrail County Roads and Bridge Engineer about the culvert that was approved for the ROW. Engineer Hennessy, stated the installation of culvert has been finished under the county road. With the existing culvert many years ago, was removed as the water should have been draining west. The Road and Bridge department placed this new culvert to help get the water moving so the water wouldn’t be standing. Engineer Hennessy, stated if the culverts in the subdivision were installed correctly it should drain. The way the roads are built for the proper drainage, water would have to go up. Engineer Hennessy, explained to the board that they should have a flood plan for 25 years or more. Mr. Zitting stated they were shut down due to the letter of credit. Mr. Zitting agrees the swell needs to be bigger by the approach. Commissioner Borud stated to Mr. Zitting that this approach will be removed. Mr. Zitting stated that it was frozen when they were digging it out but not enough was taken. Also the center road has been closed off and a cut made through it so it wasn’t a through road. This will need to be fenced off. On 68th street the plan does have an overflow shown but would like the approach to be able to stay. Wade Enget, Mountrail County States Attorney, stated that if the approach was part of the plat then there still needs proper drainage. If it wasn’t part of the plat that would have to be asked for separately. Melissa Vachal, Planning and Zoning Administrator, also stated that we’ve not addressed the crowning of the roads and that Engineer Hennessey has stated they need a 4:1 slope. Commissioner Hollekim asked if anything has been done with this information from the last meeting in 2018. Melissa Vachal, Planning and Zoning Administrator, stated dirt was being moved into lot 7 without the letter of credit. Commissioner Weisenberger asked if the board sets the amount for the letter of credit and the Planning and Zoning staff and Engineer Hennessy can see that Green Acres Subdivision developers knows the drainage issues so they can move forward. Mr. Zitting expressed the letter of credit to be lessened. He stated that they feel $15,000 is needed to re-crown the roads, egress the shoulders, culverts, and remove the approach; along with the road that’s needing to be removed. Commissioner Weisenberger stated that the approach in the middle of the lots will be needed eventually. If it was on the plat the road shouldn’t go all the way through and from lot line to approach should be re-graded as it’s not going to be used as a road. Wade Enget, Mountrail County States Attorney, recommended to the board that the developers have a written in a quote with costs separated out and present it to the board if they would like the amount decreased. Commissioner Hollekim stated she feels there’s more issues with culverts that were shallow that needed more surface over it. She feels there’s more issues than what the $15,000.00 would cover. Jana Hennessy, Mountrail County Road & Bridge Engineer, stated that the culverts are very questionable. Commissioner Hollekim would like a contractor to write up the quote. Commissioner Hollekim asked if they would be doing anything more this year. Mr. Zitting stated that they would need the Letter of Credit to move forward. Commissioner Weisenberger stated to go forward we need the quote presented to the board.

**Motion**: Commissioner Weisenberger moved that the Letter of Credit stay at $135,000.00 until the board is presented with the corrections needed by Engineer Hennessy and the Planning and Zoning Staff. Down the road it could be readjusted. Seconded by Commissioner Borud. Upon roll call, all present voted yes. Motion Carried.

**BOARD CONCERNS:**

Commissioner Ruland expressed concern that the audio has been tough to follow this meeting.

Commissioner Hovda stated that Patten was spelled wrong on the agenda.

Commissioner Hollekim wants to make sure we are getting all landowner signatures on applications.

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| **Next Meeting** |

Next regular meeting of the Mountrail County Planning & Zoning Board is ***Monday November 23, 2020*** at 8:30 am over via GOTOMEETING or in the Commissioners room at the courthouse.

Meeting adjourned at 11:30 a.m.

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| **Approval** |

Accepted and approved this 28th day of December, 2020.

Charlie Sorenson, Chairman Melissa Vachal, Administrator

Mountrail County Mountrail County

Planning & Zoning Commission Planning & Zoning