

PROCEEDINGS OF THE MOUNTRAIL COUNTY  
PLANNING & ZONING COMMISSION  
Monday November 24, 2014

The Mountrail County Planning & Zoning Commission met on Monday, November 24, 2014 at the Mountrail County South Complex with the following voting members present: Trudy Ruland, Gary Weisenberger, Chase Lindberg, Charlie Sorenson, Rosemarie Bieri, Linda Wienbar, and Bill Klug. Members absent were Roger Hovda and Arlo Borud. Also present were Lori Hanson, Mountrail County Tax Equalization Director, Wade Enget, Mountrail County States Attorney, Teresa Captain, Mountrail County Auditor's Office, Don Longmuir, Mountrail County Zoning Administrator/Planner, and Lisa Lee of Planning and Zoning.

Planning and Zoning staff requested a motion to nominate a temporary chairman in the absence of Chairman Hovda and Vice-Chairman Borud.

Moved by Commissioner Bieri, seconded by Commissioner Wienbar to nominate Commissioner Ruland as acting Chairman. Upon roll call vote all present voted yes, motion carried.

Acting Chairman Ruland called the meeting to order at 8:30 a.m.

Moved by Commissioner Weisenberger, seconded by Commissioner Bieri to approve the meeting minutes from Oct. 27<sup>th</sup>, 2014. Upon roll call vote all present voted yes, motion carried.

Moved by Commissioner Wienbar, seconded by Commissioner Klug to remove from the table a zoning application filed by Mike & Dottie Hanson for a conditional use permit to use land zoned residential to construct and operate a small dog kennel on a 7 acre, more or less, tract of land known as Outlot 1 less Sublot A + B of Outlot 1 of the S $\frac{1}{2}$ SW $\frac{1}{4}$  of Section 15, Township 156 North, Range 94 West (Myrtle Township). Upon roll call vote all present voted yes, motion carried. This discussion will be a continuation of last month's public hearing.

Acting Chairman Ruland called the 8:35 a.m. hearing to order regarding the zoning application filed by Mike & Dottie Hanson for a conditional use permit to use land zoned residential to construct and operate a small dog kennel on a 7 acre, more or less, tract of land known as Outlot 1 less Sublot A + B of Outlot 1 of the S $\frac{1}{2}$ SW $\frac{1}{4}$  of Section 15, Township 156 North, Range 94 West (Myrtle Township). Dottie Hanson participated by phone. Present for the discussion was Lynn Heinle, Tressey Heinle, and Arlan Anderson. Dottie Hanson submitted a letter from Circle Sanitation stating that the dog waste could be collected if double bagged, a letter of support from Nola Williams and Peggy Esterholm, and proof of an insurance quote. Discussion included residency in North Dakota, need staff on site at all times, set-backs from pastures, size of the lot, secondary containment, other possible zoning violations on property, and residential vs. commercial zoning. Arlan Anderson spoke about his concerns with the Hanson's dual-residency, attendance at public hearings, and requiring a setback from his cattle. Tressey Heinle spoke about the number of dogs permitted and requested if passed to be reviewed in one year, non-transferable. Lynn Heinle spoke about the incorrect number of acres listed on the application and requested the item be tabled for a year until accurate information was obtained.

Moved by Commissioner Sorenson, seconded by Commissioner Wienbar to deny the zoning request filed by Mike & Dottie Hanson for a conditional use permit to use land zoned residential to construct and operate a small dog kennel on a 7 acre, more or less, tract of land known as Outlot 1 less Sublot A + B of Outlot 1 of the S $\frac{1}{2}$ SW $\frac{1}{4}$  of Section 15, Township 156 North, Range 94 West (Myrtle Township) due to the lack of North Dakota residency, inadequate space to allow for proper setbacks from adjacent property and lack of a permanent residence on the property. Upon roll call, Commissioners Klug, Lindberg, Ruland, Sorenson, Weisenberger and Wienbar voted yes, Commissioner Bieri voted no, motion to deny carried.

Acting Chairman Ruland requested a motion to remove from the table the 8:40 a.m. public hearing regarding a subdivision review request filed by Seth Mickelson of Iron Horse with concurrence from Jack Fladeland, landowner, for a subdivision

review on a 9.50 acre, more or less, plat to be known as Outlot 1 of the W½NE¼ of Section 27, Township 153 North, Range 91 West (Crane Creek Township). Upon roll call vote all present voted yes, motion carried.

Moved by Commissioner Weisenberger, seconded by Commissioner Lindberg to remove this item from the table. Upon roll call vote all present voted yes, motion carried.

Acting Chairman Ruland called the 8:40 a.m. public hearing to order regarding the subdivision review request filed by Seth Mickelson of Iron Horse with concurrence from Jack Fladeland, landowner, for a subdivision review on a 9.50 acre, more or less, plat to be known as Outlot 1 of the W½NE¼ of Section 27, Township 153 North, Range 91 West (Crane Creek Township). Present for this discussion was Seth Mickelson of Iron Horse. This is a continuation of the discussion from last month. No further comments received. Discussion included obtaining an easement from Jack Fladeland, spot zoning, the comprehensive county zoning plans, approaching from 43<sup>rd</sup> or building a road on 44<sup>th</sup> St. NW, paving and maintenance of the road to highway standards, drainage, County Commissioner's meeting response, coming up with a developer's agreement in writing and resubmitting the water well in a separate application.

Moved by Commissioner Bieri, seconded by Commissioner Lindberg to approve the subdivision review request filed by Seth Mickelson of Iron Horse with concurrence from Jack Fladeland, landowner, for a subdivision review on a 9.50 acre, more or less, plat to be known as Outlot 1 of the W½NE¼ of Section 27, Township 153 North, Range 91 West (Crane Creek Township), contingent upon developers agreement being accepted by the Mountrail County Planning & Zoning staff, as Iron Horse has met all of the requirements of the Mountrail County Land Subdivision Resolution. Upon roll call vote all present voted yes, motion carried.

Acting Chairman Ruland requested a motion to remove from the table the 8:45 a.m. public hearing regarding the zoning request filed by Seth Mickelson of Iron Horse with concurrence from Jack Fladeland, landowner, for an amendment to change land zoned agricultural to industrial for the purpose of placing a shop, truck parking, office and water depot on a 9.50 acre, more or less, tract of land described as Outlot 1 of the W½NE¼ of Section 27, Township 153 North, Range 91 West (Crane Creek Township).

Moved by Commissioner Weisenberger, seconded by Commissioner Bieri to remove this item from the table. Upon roll call all present voted yes, motion carried.

Acting Chairman Ruland called the 8:45 a.m. public hearing to order regarding the zoning request filed by Seth Mickelson of Iron Horse with concurrence from Jack Fladeland, landowner, for an amendment to change land zoned agricultural to industrial for the purpose of placing a water depot on a 9.50 acre, more or less, tract of land described as Outlot 1 of the W½NE¼ of Section 27, Township 153 North, Range 91 West (Crane Creek Township). Present for this discussion was Seth Mickelson of Iron Horse. Discussion included removing the water depot from the application to make this application only for a shop, office, and truck depot, and access easements. This is from last month's meeting. Also discussed was the response of the county commissioners, access from McNamara's, finding an alternative access from 43<sup>rd</sup> or 44<sup>th</sup>.

Moved by Commissioner Sorenson, seconded by Commissioner Lindberg to table to the call of the Chairman the zoning request filed by Seth Mickelson of Iron Horse with concurrence from Jack Fladeland, landowner, for an amendment to change land zoned agricultural to industrial for the purpose of placing a water depot on a 9.50 acre, more or less, tract of land described as Outlot 1 of the W½NE¼ of Section 27, Township 153 North, Range 91 West (Crane Creek Township). Upon roll call all present voted yes, motion carried.

Planning and Zoning staff requested the 8:50 a.m. public hearing be removed from the agenda due to an error. Acting Chairman Ruland requested a motion to remove from the table the zoning request filed by Ben Palczewski of Montana Dakota Utilities with concurrence from Curtis Trulson, landowner, for a 0.517 acre, more or less, plat to be known as Outlot 4 of the NW¼NW¼ of Section 20, Township 156 North, Range 92 West (Ross Township) as this item was placed on the agenda in error.

Moved by Commissioner Weisenberger, seconded by Commissioner Lindberg to remove this item from the agenda. Upon roll call all present voted yes, motion carried.

Acting Chairman Ruland called the 8:55 a.m. public hearing to order regarding the zoning request filed by Montana Dakota Utilities with concurrence from Curtis Trulson, landowner, for a conditional use permit for the purpose of building an electrical distribution substation on a 0.517 acre, more or less, tract of land described as Outlot 4 of the NW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 20, Township 156 North, Range 92 West (Ross Township). No one was present representing Montana Dakota Utilities. No other comments were received. Three certified return receipt cards were received.

Moved by Commissioner Sorenson, seconded by Commissioner Lindberg to table this zoning request filed by Montana Dakota Utilities to the call of the chairman. Upon roll call, all present voted yes, motion carried.

Acting Chairman Ruland called the 9:00 a.m. public hearing to order regarding the zoning request filed by Dakota Access LLC, with concurrence from Jean M. Nelson, landowner, for an amendment to change land zoned agricultural to industrial for the purpose of accommodating a crude oil facility and substation on a 20 acre, more or less, tract of land described as the E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 35, Township 156 North, Range 91 West (Idaho Township). Present for this discussion was Jean Nelson, Mark Bullock, Ray Schepp, Derald Hoover, and Dave Halvorson. Dave Halvorson presented four certified return receipt cards from adjacent landowners. No written comments were received but verbal comments had been shared with Planning and Zoning staff. Discussion included a road haul agreement, approach coming from the highway, placing industrial projects near the highway, pipeline connectivity, 10-20 trucks per day, the overall county zoning plans, 61<sup>st</sup> St NW is a narrow road. Derald Hoover of Idaho Township spoke about an agreement to bring roads up to county standards and Dakota Access would pay for the improvements and maintenance of the roads.

Moved by Commissioner Sorenson, seconded by Commissioner Wienbar to present findings of fact from the November 24, 2014 public hearing and make a recommendation to the Mountrail County Commission to deny the zoning request filed by Dakota Access LLC, with concurrence from Jean M. Nelson, landowner, for an amendment to change land zoned agricultural to industrial for the purpose of accommodating a crude oil facility and substation on a 20 acre, more or less, tract of land described as the E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 35, Township 156 North, Range 91 West (Idaho Township) as the project does not meet the requirements of the Mountrail County Zoning Ordinance regarding the location of industrial properties next to a state or federal highway and/or adjacent to existing industrial property. Upon roll call, all present voted yes, motion carried.

Acting Chairman Ruland called the 9:05 a.m. public hearing to order regarding the zoning request filed by Dakota Access LLC, with concurrence from Jean M. Nelson, landowner, for a conditional use permit for the purpose of accommodating a crude oil facility and substation on a 20 acre, more or less, tract of land described as the E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 35, Township 156 North, Range 91 West (Idaho Township). Present for this discussion was Jean Nelson, Mark Bullock, Ray Schepp, Derald Hoover, and Dave Halvorson. Discussion included due to the failure of the amendment, the conditional use permit application would be denied as well.

Moved by Commissioner Sorenson, seconded by Commissioner Wienbar to deny the zoning request filed by Dakota Access LLC, with concurrence from Jean M. Nelson, landowner, for a conditional use permit for the purpose of accommodating a crude oil facility and substation on a 20 acre, more or less, tract of land described as the E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 35, Township 156 North, Range 91 West (Idaho Township) due to the denial of the zoning amendment request.

Acting Chairman Ruland called the 9:10 a.m. public hearing to order regarding the zoning request filed by James Carkuff for a subdivision review on a 149.03 acre, more or less, plats to be known as Outlot 6, 7, 8 and 9 of the SW $\frac{1}{4}$  of Section 2, Township 154 North, Range 91 West (Sikes Township). Present for this discussion was James Carkuff who presented the certified return receipt cards from adjacent landowners. Discussion included future plans for the subdivided land, the land is still zoned agricultural but could be rezoned at a later time, one non-agricultural home per 40 acre dwelling, fixing an error with a separate outlot (outlot 1), approach, and easements.

Moved by Commissioner Bieri, seconded by Commissioner Lindberg to approve the subdivision review requests filed by James Carkuff for subdivision reviews on a 149.03 acre, more or less, plats to be known as Outlot 6, 7, 8 and 9 of the SW¼ of Section 2, Township 154 North, Range 91 West (Sikes Township) as James Carkuff has met all of the requirements of the Mountrail County Land Subdivision Resolution. Upon roll call vote all present voted yes, motion carried.

Acting Chairman Ruland called the 9:15 a.m. public hearing to order regarding the zoning request filed by Larry Hoffman, Sundhagen Sand & Gravel with concurrence from Garrett Lalim, landowner, for a conditional use permit to use land zoned agricultural for the mining of gravel on an 80 acre, more or less, tract of land described as SW¼NE¼ & NW¼SE¼ Section 18, Township 157 North, Range 93 West (Sorkness Township). Present for this discussion was Matt Harvey, Garrett Lalim and Brad Dibble. Robert and Janice Moore submitted comments in opposition to more gravel pits in the area. Three certified return receipt cards from adjacent landowners were presented. Discussion included notification of adjacent landowners within 150 ft., lack of a road haul agreement, and a missing \$50,000 bond. Brad Dibble asked for clarification about adjacent landowner notification.

Moved by Commissioner Sorenson, seconded by Commissioner Bieri to table this zoning request for a conditional use permit filed by Larry Hoffman of Sundhagen Sand & Gravel until the next meeting. Upon roll call all present voted yes, motion carried.

Acting Chairman Ruland called the 9:20 a.m. public hearing to order regarding the subdivision review request filed by Canyon Contracting Inc. to subdivide Outlot 5 of the S½SE¼ Section 22, Township 157 North, Range 91 West (James Hill Township) into Sublot A & Sublot B. Present for this discussion was Gary Walsh who presented the certified return receipt cards from adjacent landowners. Also present was Janelle Green and Jason McDonald. Jason McDonald had previously called with concerns about this project. Discussion included future plans for this area to include single family homes on two acre lots, meeting state health and septic requirements, affordable housing in residential areas and covenants. Jason McDonald spoke about keeping the area visually appealing by not placing multiple homes in the area and the availability of five acre lots nearby. Janelle Green also stated that she chose to live in the country because it was wide open.

Moved by Commissioner Sorenson, seconded by Commissioner Bieri to approve the zoning request filed by Canyon Contracting Inc. to subdivide Outlot 5 of the S½SE¼ Section 22, Township 157 North, Range 91 West (James Hill Township) into Sublot A & Sublot B as Canyon Contracting has met all of the requirements of the Mountrail County Land Subdivision Resolution. Upon roll call vote all present voted yes, motion carried.

Moved by Commissioner Weisenberger, seconded by Commissioner Sorenson to approve the building permits excluding #1835 which will need to be rezoned as residential along with a conditional use permit for a trailer to be in compliance with the Mountrail County Zoning Ordinances. Upon roll call, all present voted yes, motion carried.

Tressey Heinle spoke about building permit #1835 is for a trailer that has been on the property for 9 months prior to application. The land is still zoned agricultural where the minimum lot size is 3 acres. She also spoke about other health and zoning issues within White Earth Township which have been forwarded by Planning and Zoning to the health department and are awaiting follow up. She requested members of the Planning and Zoning Board take a drive through to look at some of the issues in White Earth including abandoned trailer houses, trailer homes older than 8 years old being moved in, trash, campers dumping sewer, and property values being affected. She suggested fines for landowners whose properties are creating "nuisance" complaints from adjacent landowners such as noise, dust, trash, etc...

Board concerns included welcoming Bill Klug of New Town to the Planning and Zoning Board, nuisance policy is through County Commissioners, inactive gravel pits and time for reclamation agreements to match with landowner lease, gravel companies storing gravel, scoria, and equipment at gravel pit sites, stock piling, storing materials from non-licensed / non-certified weed-free pits, noxious weeds, and companies pumping water without variances. Zoning enforcement and fines were also discussed as a way to prevent residents from moving in homes without applying for proper permits. Also discussed was expanding the 150 ft. requirement for notifying adjacent landowners within the Mountrail County Zoning

Ordinances.

Staff concerns included the proposed 2015 Planning and Zoning meeting calendar and the proposed Centerville project will need to reapply for an amendment and conditional use permit. Also there was a letter from Glacier Energy Services who paid Mountrail County a \$2,000.00 fine for starting work prior to approval. Discussion also included determining the appropriate distance for notifying adjacent landowners of proposed changes in their area and updating the Mountrail County Ordinances.

Moved by Commissioner Bieri, seconded by Commissioner Weisenberger to adjourn the meeting. Upon roll call all present voted yes, motion carried.

The next regular meeting of the Mountrail County Planning and Zoning Board is Monday, December 22<sup>nd</sup> 2014 at 8:30 a.m. at the Mountrail County South Complex 8103 61<sup>st</sup> NW, Stanley, ND.

Accepted and approved this 22<sup>nd</sup> day of December 2014

---

Roger Hovda, Chairman  
Mountrail County Planning & Zoning Commission

---

Lisa Lee  
Assistant Zoning Administrator