

PROCEEDINGS OF THE MOUNTRAIL COUNTY
PLANNING & ZONING COMMISSION

Monday, November 28, 2016

The Mountrail County Planning & Zoning Commission met on Monday, November 28th 2016 at the Mountrail County South Complex with the following voting members present: Charlie Sorenson, Trudy Ruland, Gary Weisenberger, and Linda Wienbar. Roger Hovda was present by phone. Absent were Arlo Borud, Tom Bieri, Chase Lindberg and Bill Klug. Also present were Lori Hanson, Mountrail County Tax Director, Wade Enget, Mountrail County States Attorney, Don Longmuir, Planning & Zoning Administrator, and Liz Hollowell, Planning & Zoning Administrative Assistant. Absent were Teresa Captain, Mountrail County Deputy Tax Director, Heather Greenlee, Mountrail County Auditor's Office and Lisa Lee, Assistant Planning & Zoning Administrator.

Chairman Hovda called the Planning and Zoning meeting to order at 8:40 a.m.

Chairman Hovda requested a motion to review and approve the current meeting agenda. Moved by Commissioner Wienbar, seconded by Commissioner Sorenson to approve the agenda as is. Upon roll call, all present voted yes. Motion carried.

Chairman Hovda called the 8:30 a.m. public hearing to order regarding a zoning request filed by Locken Oilfield Services, with concurrence from Daryl & Pam Locken and Jesse & Rita Locken, landowners, for an amendment to change land zoned agricultural to industrial on a 3.75 acre, more or less, tract of land described as N $\frac{1}{2}$ N $\frac{1}{2}$ N $\frac{1}{2}$ N $\frac{1}{2}$ N $\frac{1}{2}$ N $\frac{1}{2}$ NE $\frac{1}{4}$ Section 10, S $\frac{1}{2}$ S $\frac{1}{2}$ S $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 3, Township 153N, Range 91W (**Crane Creek Township**). Don Longmuir, Planning & Zoning Administrator advised the Board this hearing was to connect the Outlot 1 to Highway 8. Six certified mail receipts were received with no other comments received on the project.

Present for this hearing was Jessie Locken of Locken Oilfield Services. Mr. Locken confirmed this was to connect their Outlot to the highway.

Moved by Commissioner Weisenberger, seconded by Commissioner Ruland to present finding of fact from the November 28, 2016 public hearing and make a recommendation to the Mountrail County Commissioners for approval of the zoning request filed by Locken Oilfield Service, with concurrence from Daryl & Pam Locken and Jesse & Rita Locken, landowners, for an amendment to change land zoned agricultural to industrial on a 3.75 acre, more or less, tract of land to connect Outlot 1 to Highway 8 described as N $\frac{1}{2}$ N $\frac{1}{2}$ N $\frac{1}{2}$ N $\frac{1}{2}$ N $\frac{1}{2}$ N $\frac{1}{2}$ NE $\frac{1}{4}$ Section 10, S $\frac{1}{2}$ S $\frac{1}{2}$ S $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 3, Township 153N,

Range 91W (**Crane Creek Township**) as Locken Oilfield Services has met all criteria as set forth in Article IV, Section III, of the Mountrail County Zoning Ordinance and is further contingent upon Locken Oilfield 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 8:33 a.m. public hearing to order regarding a zoning request filed by Locken Oilfield Service, landowners, for an amendment to change land zoned agricultural to industrial on an 11.09 acre, more or less, tract of land described as an Outlot 1 in the S½SE¼SW¼ of Section 3, Township 153 North, Range 91 West (**Crane Creek Township**). This hearing was tabled in September. Six certified mail receipts and no comments were received.

Moved by Commissioner Ruland, seconded by Commissioner Wienbar to untable Locken Oilfield Services request. Upon roll call, all present voted yes, Motion carried.

Present for this hearing was Jessie Locken of Locken Oilfield Services. Mr. Locken stated this was to correct the zoning for their Outlot 1.

Moved by Commissioner Wienbar, seconded by Commissioner Sorenson to present finding of fact from the November 28, 2016 public hearing and make a recommendation to the Mountrail County Commissioners for approval of the zoning request filed by Locken Oilfield Service, landowners, for an amendment to change land zoned agricultural to industrial on a 11.09 acre, more or less, tract of land described as Outlot 1 in the S½SE¼SW¼ of Section 3, Township 153 North, Range 91 West (**Crane Creek Township**) as Locken Oilfield Services has met all criteria as set forth in Article IV, Section III, of the Mountrail County Zoning Ordinance and is further contingent upon Locken Oilfield Services complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes, Motion carried.

Lori Hanson, Mountrail County Tax Director gave Mr. Locken the public hearing notices for both applications with the time and date he was scheduled to attend the Mountrail County Commissioners meeting for final approval.

Chairman Hovda called the 8:35 a.m. public hearing to order regarding a zoning request filed by Beverly Fretheim landowner, for a variance permit to use land zoned agricultural to pump slough water to sell under the terms and conditions of *ND State Water permit ND2016-17752*, using a flat hose on an 80 acres, more or less, tract of land described as the S½SW¼ of Section 34, Township 155 North, Range 93 West (**Debing**

Township). Seven certified mail receipts have been received and no other comments on the project. Don Longmuir, Planning & Zoning Administrator stated Mrs. Fretheim was unable to attend the meeting due to the weather.

Chairman Hovda stated Mrs. Fretheim has all the necessary permits.

Moved by Commissioner Sorenson, seconded by Commissioner Weisenberger to approve the zoning request filed by Beverly Fretheim , landowner, for a variance permit to use land zoned agricultural to pump slough water to sell under the terms and conditions of *ND State Water permit ND2016-17752*, using a flat hose on an 80 acres, more or less, tract of land described as the S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 34, Township 155 North, Range 93 West (**Debing Township**) as Beverly Fretheim has met all the criteria as set forth in Article IV, Section V in the Mountrail County Zoning Ordinance and is further contingent upon Beverly Fretheim 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 8:38 a.m. public hearing to order regarding a zoning request filed by Edwards Gravel & Trucking LLC with concurrence from Randy & Kori Hodgson landowners, for a conditional use permit to use land zoned agricultural for mining gravel on a 80 acre, more or less, tract of land described as Gov't Lots 2 & 4 of Section 18, Township 152 North, Range 90 West (**Parshall Township**). Don Longmuir, Planning & Zoning Administrator stated this hearing was tabled in October so would need a motion to untable.

Moved by Commissioner Ruland, seconded by Commissioner Wienbar to untable Edwards Gravel & Trucking LLC's request. Upon roll call, all present voted yes, Motion carried

Five certified mail receipts have been received as well as a letter of credit. No road haul agreement or written comments were received. No one was present for this hearing. Chairman Hovda stated Edwards Gravel & Trucking LLC does not have a road haul agreement with Parshall or Van Hook Townships. Chairman Hovda advised the Board that Edwards Gravel has been mining gravel on Gov't Lot 4 for over a month with no permit or road haul agreement. Wade Enget, Mountrail County States Attorney stated Planning and Zoning will do an administrative Cease and Desist. Also this incident would be referred to the States Attorney's office for further actions.

Moved by Commissioner Ruland, seconded by Commissioner Sorenson to deny the zoning request filed by Edwards Gravel & Trucking LLC with concurrence from Randy & Kori Hodgson landowners, for a conditional use permit to use land zoned agricultural for mining gravel on a 80 acre, more or less, tract of land described as Gov't Lots 2 & 4 of

Section 18, Township 152 North, Range 90 West (**Parshall Township**) as no one was present for the hearing, no road haul agreement was received and Edwards Gravel & Trucking LLC was operating without a permit. Upon roll call, all present voted yes. Motion carried.

Chairman Hovda called the 8:38 a.m. public hearing to order regarding a zoning request filed by Triple Aggregate, LLC with concurrence from Fred Sorenson landowner, for a conditional use permit to use land zoned agricultural for mining gravel on a 80 acre, more or less, tract of land described as N $\frac{1}{2}$ SE $\frac{1}{4}$ East of the White Earth River of Section 4, Township 154 North, Range 94 West (**Unorganized Township**). One certified mail receipt and the letter of credit memo were received. A road haul agreement with Mountrail County was also received.

Present for this hearing was Sam Dyk of Triple Aggregate, LLC. Chairman Hovda asked if this pit was on county roads. Wade Enget, Mountrail County States Attorney advised the pit is in an unorganized township so Mountrail County cares for the roads. Commissioner Sorenson voiced concerns regarding Triple Aggregate's pit in the NW $\frac{1}{4}$ of Section 3. This pit was served a Cease and Desist this spring due to several violations. This pit has since been abandoned but is not yet reclaimed. Mr. Dyk stated they are still working on the reclamation and should be done very soon. The landowner has not signed off on the reclamation. Commissioner Sorenson stated the pit is starting to show signs of erosion and the pit in Section 4 is showing the same signs. Commissioner Sorenson stated whatever the Board decides; it needs to include cleaning up the pit on Section 3 and providing protection for the river. Mr. Dyk stated there are berms between the pits and the river as well as erosion control. Wade Enget, Mountrail County States Attorney reviewed the ordinances pertaining to conditional use permits with the Board. Commissioner Sorenson stated Triple Aggregate didn't file a storm water drainage plan with the State Health department. Mr. Dyk stated he was lead to believe he did not need a drainage plan but will look into it again. Commissioner Sorenson stated Triple Aggregate has corrected most of the problems in Section 3 from last year.

Also present for this hearing was Gary Krieger, POA for E.S. Krieger, who owns the land South of Triple Aggregate pit in Section 4. Mr. Krieger expressed concerns on weed control, dust control and overall safety. Mr. Krieger also outlined four items that should be addressed if the permit is granted. Mr. Krieger had mailed a letter with his concerns/suggestions and had a copy of the letter with him. Each board member was given a copy and Wade Enget, Mountrail County States Attorney read the letter to the Board. Mr. Krieger asked that Triple Aggregate not use the private approach that leads to the residence. Mr. Dyk stated they no longer use it as there is one north of it they have been using for a while. Chairman Hovda asked if the road that was being used by Triple Aggregate was certified miles on the Mountrail County's road miles. Jana

Heberlie, Mountrail County Engineer, stated it was and showed the map to the Board. There was a question on a stretch of road. Engineer Heberlie will look into that.

Moved by Commissioner Weisenberger, seconded by Commissioner Ruland to table the zoning request filed by Triple Aggregate, LLC with concurrence from Fred Sorenson landowner, for a conditional use permit to use land zoned agricultural for mining gravel on a 80 acre, less or more, tract of land described as N½SE¼ East of the White Earth River of Section 4, Township 154 North, Range 94 West (**Unorganized Township**) as more research on the road, easements and storm water drainage plan is needed. Upon roll call, all present voted yes. Motion carried.

Chairman Hovda called the 8:45 a.m. public hearing to discuss a Subdivision Review request filed by V Gail Brendle Trustee, Brendle Living Trust, landowner, for a 39.66 acre, more or less, tract of land in the S½NE¼ of Section 10, Township 151 North, Range 91 West (**Liberty Township**) to be known as Brendle's 3rd Subdivision. Six certified return receipts and no written comments received. A signed Development Agreement as well as the subdivision covenants were also received and reviewed. Wade Enget, Mountrail County States Attorney asked about the approaches and explained how the amount for the required letter of credit was determined.

Present for this hearing was Wayne Tuttle. Mr. Tuttle asked if the request could be approved contingent on finalizing the Development Agreement and if the request was approved as such, can they begin to advertise the lots for sale? Mr. Tuttle stated everyone that purchases a lot would receive a copy of the covenants and the Mountrail County ordinances for their records. Each new landowner would be required to sign verifying they received and understood the documents.

Moved by Commissioner Ruland, seconded by Commissioner Wienbar to *approve* the Subdivision Review request filed by V Gail Brendle Trustee, Brendle Living Trust, landowner, for a 39.66 acre, more or less, tract of land in the S½NE¼ of Section 10, Township 151 North, Range 91 West (**Liberty Township**) to be known as Brendle's 3rd Subdivision contingent on V Gail Brendle Trustee, Brendle Living Trust fulfilling all the conditions of the Development Agreement as V Gail Brendle Trustee, Brendle Living Trust has met all the criteria as set forth in the *Mountrail County Subdivision Resolution* and is further contingent upon V Gail Brendle Trustee, Brendle Living Trust complying with all other regulations as set forth in the Mountrail County Zoning Ordinances. Upon roll call, all present voted yes. Motion carried.

Mr. Tuttle asked if it was ok to advertise the lots for sale. Wade Enget, Mountrail County States Attorney stated it's ok and important that Mrs. Brendle get the letter of credit to Mountrail County right away. Don Longmuir, Planning & Zoning

Administrator asked if a letter of credit was necessary since the approach was completed. Mountrail County States Attorney Enget stated it was as it is a requirement per the Mountrail County Subdivision Resolution. Mr. Tuttle asked if Mrs. Brendle knew this. Mountrail County States Attorney Enget stated we will communicate with her on this matter and encouraged Mr. Tuttle to contact her as well.

Chairman Hovda called the 8:48 a.m. public hearing to order regarding an Outlot Plat Review request filed by Travis, Shane, & Shalene Trulson, landowners, for a 49.64 acre, more or less, tract of land to be known as Outlot 1 in the SW $\frac{1}{4}$ of Section 7, Township 154 North, Range 88 West (**Osloe Township**). No certified mail receipts or written comments were received.

Present for the hearing was Travis Trulson. Mr. Trulson had the final plat. Lori Hanson, Mountrail County Tax Director reviewed the final plat. Mr. Trulson stated he didn't know about the notification requirements. Wade Enget, Mountrail County States Attorney explained the requirement to Mr. Trulson and encouraged Mr. Trulson to meet with the Planning & Zoning staff for that information after today's meeting. Mountrail County States Attorney Enget requested a motion to put this hearing on the agenda at 8:30 am on December 27, 2016.

Moved by Commissioner Ruland, seconded by Commissioner Weisenberger to place the Outlot Plat Review request filed by Travis, Shane, & Shalene Trulson, landowners, for a 49.64 acre, more or less, tract of land to be known as Outlot 1 in the SW $\frac{1}{4}$ of Section 7, Township 154 North, Range 88 West (**Osloe Township**) on December 27, 2016 agenda at 8:30 am as no certified mail receipts have been received. Upon roll call, all present voted yes. Motion carried.

Chairman Hovda called the 8:40 a.m. public hearing to discuss a zoning request filed by Johnny David Kulczyk, landowner, for an amendment to change land zoned agricultural to industrial for a water depot with ponds and a well on a 10 acre, more or less, tract of land described as NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 17, Township 153N, Range 91 W and 40 acres, more or less, tract of land described as SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 20, Township 153N, Range 91W (**Unorganized Township**) – NOTE: The legal description for the well site was excluded as Mr. Kulczyk doesn't own the land. NOTE: P&Z accepted incomplete application under legal counsel of our State's Attorney. Mr. Kulczyk requested the hearing be tabled as he didn't receive the notification documents in time. Wade Enget, Mountrail County States Attorney recommended this hearing be moved to the December 27, 2016 meeting as well.

Moved by Commissioner Ruland, seconded by Commissioner Weisenberger to place the zoning request filed by Johnny David Kulczyk, landowner, for an amendment to change land zoned agricultural to industrial for a water depot with ponds and a well on a 10 acre, more or less, tract of land described as NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 17, Township 153N, Range 91 W and 40 acres, more or less, trace of land described as SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 20, Township 153N, Range 91W (**Unorganized Township**) on the December 27, 2016 agenda. Upon roll call, all present voted yes. Motion carried.

Moved by Commissioner Weisenberger, seconded by Commissioner Wienbar to approve the minutes from the October 24th 2016 Planning & Zoning Meeting with corrections. Upon roll call, all present voted yes, Motion carried.

Moved by Commissioner Ruland, seconded by Commissioner Weisenberger to approve the building permit # 1959 - 1961. Upon roll call, all present voted yes. Motion carried.

Board Concerns: None

Staff Concerns: Don Longmuir, Planning & Zoning Administrator addressed the letter from Sam Grinolds submitted to the Board. Planning and Zoning served a Cease and Desist on parking trucks at Mr. Grinold's location and this letter is to address that. Wade Enget, Mountrail County States Attorney stated he had spoken with Mr. Grinolds as well.

Don Longmuir, Planning & Zoning Administrator announced this would be his last Planning & Zoning meeting and that Lisa Lee, Assistant Planning & Zoning Administrator was hired by the Mountrail County Commissioner to be his replacement.

Chairman Hovda adjourned the meeting.

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

Accepted and approved this 27th day of December 2016.

Roger Hovda, Chairman
Mountrail County
Planning & Zoning Commission

Liz Hollowell
Administrative Assistant
Planning & Zoning