

PROCEEDINGS OF THE MOUNTRAIL COUNTY  
PLANNING & ZONING COMMISSION

Monday, January 23, 2017

The Mountrail County Planning & Zoning Commission met on Monday, January 23, 2017 at the Mountrail County South Complex with the following voting members present: Charlie Sorenson, Tom Bieri, Gary Weisenberger, and Bill Klug. Roger Hovda and Arlo Borud were present by phone. Absent were Chase Lindberg, Linda Wienbar, and Trudy Ruland. Also present were Lori Hanson, Mountrail County Tax Director, Teresa Captain, Mountrail County Deputy Tax Director, Wade Enget, Mountrail County States Attorney, Lisa Lee, Planning & Zoning Administrator, Heather Greenlee, Mountrail County Auditor's Office and Liz Hollowell, Planning & Zoning Administrative Assistant.

Chairman Hovda called the Planning and Zoning meeting to order at 8:30 a.m.

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

Wade Enget, Mountrail County States Attorney announced the reorganization of the Planning and Zoning Board. First item on the agenda was the election of a Chairman. Moved by Commissioner Sorenson, seconded by Commissioner Weisenberger to nominate Roger Hovda for Chairman. Moved by Commissioner Weisenberger to close nominations and cast a unanimous ballot for Roger Hovda as Chairman. Upon roll call, all present voted yes. Motion carried.

Wade Enget, Mountrail County States Attorney called for nominations for Vice Chairman. Moved by Chairman Hovda, seconded by Commissioner Weisenberger to nominate Charlie Sorenson for Vice Chairman. Moved by Commissioner Weisenberger to close nominations and cast a unanimous ballot for Charlie Sorenson as Vice Chairman. Commissioners Bieri, Borud, Klug, Weisenberger, and Hovda voted yes. Motion carried.

Vice Chairman Sorenson called the 8:30 a.m. public hearing to order regarding a zoning request filed by Knife River – North Central, with concurrence from Gary & Caroline Satterthwaite and Barbara Satterthwaite, landowners, for a conditional use permit to use land zoned agricultural for the purpose of mining gravel and asphalt operations on an 36 acre, more or less, tract of land described as the SW $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 8, Township 153 North, Range 92 West (**Knife River Township**). Three certified receipts were received with no other comments on the project.

Present for the hearing was Chris Kautz of Knife River – North Central. Mr. Kautz stated this pit was for the Highway 1804 project and while he does not know when it will begin, it is scheduled to be complete by the end of 2018. Lisa Lee, Planning & Zoning Administrator stated Knife River has a road haul agreement with Mountrail County and each board member has a copy. The agreement is missing the signature and final approval of Jerry Uran, Knife River Township Chairman and Mountrail County Engineer Herberlie. Mr. Uran was present at the hearing and stated he would sign the road haul agreement. The Board asked Mr. Kautz if they had permission from Whiting Oil & Gas Corporation to use their approach. Mr. Kautz stated they did and gave a signed copy to the Board. A discussion was held on the setback from the section line between Section 7 and Section 8. Mountrail County Zoning Ordinance states setback are 150 feet, which is 75 feet either side of the section line. Vice Chairman Sorenson advised Mr. Kautz that Knife River – North Central would need permission from Knife River Township and then apply for a variance with Planning & Zoning to mine within the required setbacks. It was determined that the legal description for Section 8 was correct at SW $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$  but the acreage is 80 acres. Mr. Gary Satterthwaite was present and asked if the 150' from the section line was just for gravel pits. Wade Enget, Mountrail County States Attorney advised it applies to anyone doing projects around a section line as per the Mountrail County Zoning Ordinance.

Moved by Commissioner Bieri, seconded by Commissioner Weisenberger to approve the zoning request filed by Knife River – North Central, with concurrence from Gary & Caroline Satterthwaite and Barbara Satterthwaite, landowners, for a conditional use permit to use land zoned agricultural for the purpose of mining gravel and asphalt operations for five (5) years on a 80 acre, more or less, tract of land described as the SW $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 8, Township 153 North, Range 92 West (**Knife River Township**) requiring a signed approach permit from Whiting Oil & Gas, a signed Road Haul agreement with Mountrail County and Knife River Township, and requiring a \$125,000.00 letter of credit to be renewed and filed with the Planning & Zoning office annually for five years as Knife River – North Central has met all the criteria as set forth in Article IV, Section IV in the Mountrail County Zoning Ordinance and is further contingent upon Knife River – North Central complying with all other regulations as set forth in the Mountrail County Zoning Ordinances. Upon roll call, all present voted yes. Motion carried.

Vice Chairman Sorenson called the 8:30 a.m. public hearing to order regarding a zoning request filed by Knife River – North Central, with concurrence from Gary & Caroline Satterthwaite and Barbara Satterthwaite, landowners, for a conditional use permit to use land zoned agricultural for the purpose of mining gravel and asphalt operations on

an 35 acre, more or less, tract of land described as the N½ of Section 7, Township 153 North, Range 92 West (**Knife River Township**). Three certified receipts were received with no other comments received on the project.

Present for the hearing was Chris Kautz of Knife River – North Central. Mr. Kautz stated this pit was also for Highway 1804 project and showed on the map this pit and the pit in Section 8 were right next to each other. The Board stated the same rules apply regarding the section line setbacks. A discussion was held on the legal description being the N½ when gravel pits are a maximum of 80 acres. Mr. Kautz stated it was to encompass the access road in the permit. The access road and the pit area come to a total of 35 acres. It was determined that the conditional use permit legal description would be amended to be 80 acres, more or less, tract of land described as the S½NE¼ of Section 7 Township 153 North, Range 92 West (**Knife River Township**). This pit would also require a signed approach permit from Whiting Oil & Gas, a signed Road Haul agreement with Mountrail County and Knife River Township, and an additional \$125,000.00 letter of credit. Mr. Kautz agreed to these requirements. Wade Enget, Mountrail County States Attorney reminded Mr. Satterthwaite that all property owners must sign the applications and permits.

Moved by Commissioner Weisenberger, seconded by Commissioner Bieri to approve the zoning request filed by Knife River – North Central, with concurrence from Gary & Caroline Satterthwaite and Barbara Satterthwaite, landowners, for a conditional use permit to use land zoned agricultural for the purpose of mining gravel and asphalt operations for five (5) years on a 80 acre, more or less, tract of land described as the S½NE¼ of Section 7, Township 153 North, Range 92 West (**Knife River Township**) requiring a signed approach permit from Whiting Oil & Gas, a signed Road Haul agreement with Mountrail County and Knife River Township, and a \$125,000.00 letter of credit to be renewed and filed with the Planning & Zoning office annually for five years Township as Knife River – North Central has met all the criteria as set forth in Article IV, Section IV in the Mountrail County Zoning Ordinance and is further contingent upon Knife River – North Central complying with all other regulations as set forth in the Mountrail County Zoning Ordinances. Upon roll call, all present voted yes. Motion carried.

Vice Chairman Sorenson called the 8:36 a.m. public hearing to order regarding a subdivision review request filed by Whiting Oil & Gas Corporation, landowners, for a 21.77 acre, more or less, tract of land to be known as an Outlot in the NW¼NW¼ of Section 23, Township 153 North, Range 91 West (**Crane Creek Township**). One certified receipt was received with no other comments received on the project. Lisa Lee, Planning & Zoning Administrator stated the plat has been approved by all parties and

the final plat was ready to be recorded. Administrator Lee stated this hearing had been tabled in December, so the Board would need to un-table the hearing before taking any action.

Moved by Commissioner Weisenberger, seconded by Commissioner Klug to un-table Whiting Oil & Gas Corporation's request. Upon roll call, all present voted yes. Motion carried.

Present for the hearing was Chris Robinson of Highlands Engineering. Mr. Robinson stated Whiting Oil and Gas was subdividing land for a possible sale.

Moved by Commissioner Weisenberger, seconded by Commissioner Klug to approve the outlot plat review request filed by Whiting Oil & Gas Corporation, landowners, for a 21.77 acre, more or less, tract of land to be known as Outlot 4 in the NW¼NW¼ of Section 23, Township 153 North, Range 91 West (**Crane Creek Township**) as Whiting Oil & Gas Corporation have met all criteria as set forth in the Mountrail County Land Subdivision Resolution and is further contingent upon Whiting Oil & Gas Corporation complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes, Motion carried.

The final plat was given to Chris Robinson of Highlands Engineering with instructions to take it to the Mountrail County Courthouse for recording.

Moved by Chairman Hovda, seconded by Commissioner Borud to approve the minutes from the Monday, January 9, 2017 (rescheduled from December 27<sup>th</sup>, 2016) Planning & Zoning Meeting as corrected. Upon roll call, all present voted yes, motion carried.

Building Permits: Planning and Zoning received a building permit after the Planning and Zoning packets were mailed. Lisa Lee, Planning & Zoning Administrator advised the Board each one of them received a copy and explained what the building permit was for.

Moved by Commissioner Klug, seconded by Commissioner Weisenberger to approve building permit #1962. Upon roll call, all present voted yes. Motion carried.

#### Staff Concerns:

Lisa Lee, Planning & Zoning Administrator stated Sundre Sand & Gravel had submitted a request for a gravel pit bond release with concurrence from Joseph D. Hynek, landowner. The pit is located at Lot 5 Sec 6, Township 154 North Range 92 West 37.38 acres, and the landowner has signed off on the reclamation.

Moved by Commissioner Borud, seconded by Commissioner Weisenberger to approve the pit release from Sundre Sand & Gravel, with concurrence from Joseph D. Hynek, landowner on a 37.38 acre, more or less, tract of land described as Lot 5 Sec 6, Township 154 North, Range 92 West (Brookbank Township) as Joseph D Hynek, landowner has signed off on the reclamation. Upon roll call, all present voted yes, motion carried.

Lisa Lee, Planning & Zoning Administrator stated Basin Electric and Mountrail Williams are beginning the application process for a 26 mile electric transmission line from Plaza Substation to Blaisdell Substation. The conditional use application will require obtaining easements and signatures from 91 landowners and is forthcoming this Spring.

Administrator Lee reported on the Terry Jones application that was denied at December Planning and Zoning meeting. Mr. Jones was approved at State Water Commission. His project is classified as a low hazard structure and therefore does not require engineered plans at State level. Mr. Jones is meeting with Local Water Resource Board next month to provide written comment from landowners documenting how potential issues are being addressed. Planning and Zoning has received no other applications or documents from Mr. Jones.

Lisa Lee, Planning & Zoning Administrator stated Planning and Zoning has received comments from gravel companies about the Letter of Credit requirement.

Pinky's Aggregates Inc. submitted a letter regarding the letter of credit requirement which was provided to the board. Dale Honsey of Pinky's Aggregates Inc. was present for this discussion. Mr. Honsey stated the letter of credit was a hardship on them due to the cost and that it ties up assets that they might need to use elsewhere. Jeff Martinson of Pinky's Aggregate Inc. also weighed in on the hardship.

Dave Abel of Sundre Sand & Gravel was also in attendance and had a copy of his comments which were also provided to the board. Mr. Abel addressed the letter of credit and how it applies to stockpiles and the possibility of being able to wait to get the letter of credit until the project actually begins. Mr. Abel also stated the letter of credit ties up assets that they might need for furthering their projects.

Max Schriock of Aggregate Construction Inc. was also present. Mr. Schriock questioned the reason behind the letter of credit requirement and expressed concern of the amount of assets that are tied up and while Aggregate Construction has not had to purchase a letter of credit yet, Mr. Schriock stated it was important for him to find out the reason for the change as many of his pits are expiring this year.

Wade Enget, Mountrail County States Attorney explained why Mountrail County Planning and Zoning changed to letter of credit instead of a reclamation bond. States Attorney Enget also reminded the representative from the gravel companies that Planning and Zoning took comment on the change to a letter of credit for over a year.

Vice Chairman Sorenson stated that the gravel companies are looking at cost and Mountrail County is looking at reclamation. Vice Chairman Sorenson explained the reasons Mountrail County went to a letter of credit.

Commissioner Weisenberger asked the gravel companies what they thought was a fair letter of credit amount. Dave Abel of Sundre Sand & Gravel stated it should depend on the size of the pit according to the permit.

Lisa Lee, Planning & Zoning Administrator stated Planning and Zoning has a spreadsheet that list 158 permitted gravel permits within Mountrail County with 13 of them with no expiration date and many permits with no bonds expiring this year.

Administrator Lee reported that a developer called inquiring about a landowner with 160 acres looking to split the land up into 10-40 acre "ranchette" style lots allowing livestock, not as a primary income, but a hobby. The developer stated 5-6 people from Stanley are interested in leaving the city and enhancing their home life through hobby farms. As it stands now in the Mountrail County ordinance, the only appropriate zoning would be agricultural which fits with the County's vision of remaining agricultural. A discussion was held on different zoning classifications, county ordinances and the possibility of adding a rural residential designation with specific parameters for livestock depending on acreage. Currently, per Mountrail County Zoning Ordinance, 40 acres is the minimum lot size on agricultural land (excluding immediate family members).

Lisa Lee, Planning & Zoning Administrator stated it would be preferable to take an annual or biennial approach to updating zoning ordinances. One of Administrator Lee's initiatives over the next year or two will be to meet with planners in neighboring counties to do some research on changes they have made that have been successful. Administrator Lee would also take some time to collaborate with the Planning & Zoning Board and Wade to put together some ideas so the regulations could be updated to reflect who Mountrail County is today and who we want to be going forward.

Additionally, Administrator Lee explained that Mountrail County is in need of a Comprehensive Plan rewrite. The Comprehensive Plan is a plan that creates the vision and foundation for the landscape 10-30 years into the future. It is required by North Dakota Century Code in order to maintain zoning authority and should establish goals,

objectives, and vision for the future. This document should be the basis for Mountrail County Zoning Ordinances. Administrator Lee will look for grants to help pay for the rewrite of the Comprehensive Plan.

#### Board Concerns:

Chairman Hovda asked Wade Enget, Mountrail County States Attorney to give the board an update on a meeting with Mike Gietzen regarding the Brendle's Bay camper issue. Mr. Gietzen was asking the board for some leniency for the landowner with campers on their residential lots. States Attorney Enget stated there is no provision in the Mountrail County Zoning Ordinance to allow campers or RV's in a residential zone. The Brendle's Bay issue will be revisited by the Planning & Zoning Board at the February 27, 2017 meeting as that is the deadline the Board gave the camper owner to remove their campers.

Commissioner Borud stated he is open to listening to the gravel contractors' suggestions and believes it's important to work with townships and landowners regarding land reclamation. There needs to be protection for the landowners to make sure the land is reclaimed to the landowner's satisfaction.

Commissioner Bieri asked about the gravel pit and changing the letter of credit to the acres disturbed. Administrator Lee stated that many times the acres applied for is not the actual acres disturbed as the pits are not surveyed. Commissioner Klug stated to check each pit would be very difficult. Our goal is to get the land reclaimed and if the gravel contractor doesn't want to tie up any assets to help with the reclamation, then it could be a long time before it is reclaimed. Administrator Lee stated that another concern is that the landowner's idea of reclaimed and the Counties view can be two very different things. Commissioner Klug suggested asking for proof that a gravel company actually did some reclamation. Also discussed was the need for weed control, storm water drainage plans, and erosion control at gravel pits.

Commissioner Weisenberger asked for clarification on the assessed taxes. Lori Hanson, Mountrail County Tax Director explained the breakdown between active and inactive gravel pits. The property tax could go down if the gravel pit is no longer producing but is yet to be reclaimed.

Kenton Onstad with Mountrail Williams Electric Cooperative stopped in at the meeting to ask the Board for clarification on distribution and transmission lines as Mountrail Williams has not applied for conditional use permits in the past. Wade Enget, Mountrail County States Attorney advised Mr. Onstad he was correct about transmission lines needing a conditional use permit per the zoning ordinances and this would be a decision

for the entire Planning and Zoning Board. Mr. Onstad asked for clarification on what a conditional use permit is and how to apply for one. Mr. Onstad stated this hasn't been followed before and thinks it's important to let the utility companies know of these types of changes. Mr. Onstad will meet with Administrator Lee to discuss requirements.

Vice Chairman Sorenson adjourned the meeting.

The next regular meeting of the Mountrail County Planning & Zoning Board is Monday, February 27, 2017 at 8:30 am at the Mountrail County South Complex, 8103 61<sup>st</sup> St. NW Stanley, ND 58784.

Accepted and approved this 27<sup>th</sup> day of February 2017.

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Charlie Sorenson, Vice Chairman  
Mountrail County  
Planning & Zoning Commission

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Liz Hollowell  
Administrative Assistant  
Planning & Zoning