MiNUTES – FEBRUARY 22, 2021

**Mountrail County Planning & Zoning Commission**

**Mountrail County Courthouse, 101 North Main Street, Stanley, ND 58784**

*Chairman Sorenson called the meeting to order at 8:30 a.m.*

**In Attendance**

**Board members present**: Charlie Sorenson, Trudy Ruland, Gary (Fritz) Weisenberger, Roger Hovda, Joan Hollekim, and Zachary Gaaskjolen.

**Also present:** Lori Hanson, Mountrail County Tax Director, Melissa Vachal, Planning & Zoning Administrator, Linda Wienbar, Planning & Zoning Assistant, and Jana Hennessy, Mountrail County Engineer.

**Absent:** Board members Thomas Nash, Thomas Bieri, and Arlo Borud.

**Approval of Agenda**

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

**8:35 a.m. – Water Variance**

**H2O Connections LLC – Applicant**

**Robert and Dale Patten – Landowners**

**Location:** Legal Description: NW1/4NW1/4 Section 36, Township 154 North, Range 91 West (Sikes Township)

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

**PZ-2021-0007**

**Parcel#** 320019900

**Purpose**: Discussion on a zoning request application-water variance filed by H2O Connections, LLC in concurrence with Robert and Dale Patten for the purpose of a temporary water depot for transferring industrial water by lay flat hose 40 acres more or less.

**Present:** Jared Wirtz, H2O Connections, LLC, Jenny and Craig Anderson, adjacent landowners

**Discussion:** Mr. Wirtz began discussion on this explaining that H2O Connections LLC are seeking this variance to be able to sell water in the near future and asked if the board had any questions for him. Chairman Sorenson asked if the board had any questions or comments on this matter. Jenny Arndt -Anderson did have concerns about Mr. Wirtz being given this permit because she believes H2O Connections LLC pulled water from this area previously without the proper permits. Commissioner Wiesenberger asked about the penalties of Wade Enget, Mountrail County States Attorney. Investigation would need to be done by Planning and Zoning Administration. Mr. Wirtz clarified they brought this matter up in October and there was confusion at that time whether or not H2O Connections LLC could combine this area with another permit from the county as H2O Connections LLC state permit covered two areas in this section and this permit was in place for almost a year. Mr. Wirtz stated he’s cleaning up the paperwork so H2O Connections LLC in compliance with the correct paperwork. Ms. Anderson states she believes the last permit had expired and H2O Connections LLC was pulling water past that expiration date. Commissioner Hollekim asked Melissa Vachal, Planning & Zoning Administrator if the permit that expired was the state permit or the county permit and Administrator Vachal stated that the county permit is the one that had expired. Commissioner Hollekim believes this is a separate issue and H2O Connections LLC is not out of compliance on this matter and so the board wouldn’t have any reason to deny it. Commissioner Weisenberger asked that Planning & Zoning look into what happened previously and Commissioner Ruland agreed.

**Motion:** Moved by Commissioner Hollekim, seconded by Commissioner Gaaskjolen, to approve the zoning request filed by H20 Connections, LLC with concurrence from Robert & Dale Patten, landowners for a water variance for the purpose of a temporary water depot for transferring industrial water by lay flat hose. Located in NW1/4NW1/4 Section 36, Township 154 North, Range 91 West (Sikes Township). Having met all criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is further contingent upon compliance with all other terms and conditions of the Mountrail County Zoning Ordinance. All present voted yes. Motion carried.

**8:40 a.m. – Water Variance**

**Bakken Water Transfer Services LLC – Applicant**

**Greg Rugland – Landowner**

**Location:** Legal Description: Gov’t Lot 3 (NW1/4SW1/4) Section 31, Township 157 North, Range 90 West (Clear Water Township)

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

**PZ-2021-0014**

**Parcel#** 100014700

**Purpose**: Discussion on a zoning request application-water variance filed by Bakken Water Transfer Services LLC in concurrence with Greg Rugland for the purpose of a temporary water depot for transferring industrial water by lay flat hose 40 acres more or less.

**Present:** Brett Brothers, Bakken Water Transfer Services LLC, Jana Hennessy, Mountrail County Engineer

**Discussion:** Brett Brothers opened discussion stating Bakken Water Transfer Services LLC is seeking the variance to be able to move water via lay flat hose and asked the board if they had any questions. Commissioner Ruland had concerns about being able to stay out of the right-of-way of the township road, if they had agreement from the township board because of the proximity to the township road, and also expressed concerns about having a pump so close to the road and vehicles coming in and out to service it as well as making sure they don’t cross the section line. Lori Hanson, Mountrail County Tax Director illustrated on a map that they should have enough room if they keep to the NW tip of the slough. Commissioner Ruland would like to see the agreements with the townships come in ahead of time for future variance applications. Mr. Brothers stated they would be bringing all agreements with county and township in when they apply for the temporary use permit for the hose.

**Motion:** Moved by Commissioner Hovda, seconded by Commissioner Gaaskjolen, to approve the zoning request filed by Bakken Water Transfer Services, LLC with concurrence from Greg Rugland, landowner for a water variance for the purpose of a temporary water depot for transferring industrial water by lay flat hose. Located in Gov’t Lot 3 (NW1/4SW1/4) Section 31, Township 157 North, Range 90 West (Clear Water Township). Having met all criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is further contingent upon compliance with all other terms and conditions of the Mountrail County Zoning Ordinance. All present voted yes. Motion carried.

**8:45 a.m. – Variance**

**Fritel Construction Company Inc. – Applicants**

**First International Bank & Trust / Trust Office for Zachariah L. Fritel Estate – Landowner**

**Location:** Legal Description: Outlot 1 of SESW Section 6, Township 156 North, Range 91 West (Idaho Township)

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

**PZ-2021-0012**

**Parcel#** 180003101

**Purpose**: Discussion on a variance request to use property zoned Ag as an industrial site, filed by Fritel Construction Company, Inc. in concurrence with First International Bank and Trust / Trust Office for Zachariah L. Fritel Estate.

**Present:** Sam & Megan Fritel, Fritel Construction Company Inc., Clayton Hove, adjacent landowner

**Discussion:** Chairman Sorenson asked Mr. and Mrs. Fritel what they are hoping to accomplish with this variance. Mr. Fritel apologized for not going about this the right way as they thought the property was already zoned as commercial because of what they saw on the GIS. Melissa Vachal, Planning & Zoning Administrator clarified that it is taxed as commercial but is still zoned as agricultural. Commissioner Hollekim asked why they are asking for a variance and not a zoning amendment. Mrs. Fritel explained that it is a temporary request because the land is for sale and Fritel Construction would like to use it until May 1, 2021 to allow time to move the business and equipment. Chairman Sorenson stated he doesn’t understand why the variance application because the request is not for an amendment to the zoning. Wade Enget, Mountrail County States Attorney stated the board could decide to not enforce anything until after a certain date and then take action after that point. Clayton Hove, landowner added that he doesn’t have any issue with Fritel Construction having a certain amount of time to move the equipment and his only concern is that he doesn’t want it zoned as commercial because the land is for sale and he doesn’t want a business moving in next to his land. Commissioner Ruland stated she would be okay if there is an agreement that it will be cleaned up within a certain timeframe and Commissioner Hollekim agreed. Commissioner Weisenberger asked if a motion could be made to disregard the application and refund the application fees to Fritel Construction and impose a deadline to move equipment of May 31, 2021. Moving forward this property will be noted that it’s still zoned as Agriculture. Chairman Sorenson asked for two motions; one to impose the deadline and one to address the request of a refund of the application fees.

**Motion:** Moved by Commissioner Weisenberger, seconded by Commissioner Hollekim to allow Fritel Construction Inc. to continue use of land until May 31, 2021 but the land will remain agricultural zoned. All present voted yes. Motion carried. Moved by Commissioner Weisenberger, seconded by Commissioner Gaaskjolen to approve the refund of application fees for this variance request as well as the conditional use request to Fritel Construction. All present voted yes. Motion carried.

**8:50 a.m. – Conditional Use**

**Fritel Construction Company Inc. – Applicants**

**First International Bank & Trust / Trust Office for Zachariah L. Fritel Estate – Landowner**

**Location:** Legal Description: Outlot 1 of SESW Sections 6, Township 151 North, Range 91 West (**Idaho Township)**

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

**PZ-2021-0012**

**Parcel# 180003101**

**Purpose**: Discussion on a conditional use request to allow the operation of the company to run company trucks out of property zoned Ag. Filed by Fritel Construction Company, Inc in concurrence with First International Bank and Trust / Trust Officer for Zachariah L. Fritel Estate.

**Present:** Sam & Megan Fritel, Fritel Construction Company Inc., Clayton Hove, adjacent landowner

**Discussion:** Chairman Sorenson struck this hearing from the agenda as discussion on this matter was had with the variance request.

**Motion:** No motions were made.

**Approval of Minutes of the January 25, 2021 Meeting**

Chairman Sorenson pointed out that “upon roll call” should be removed in all motions.

**Motion:** Moved by Commissioner Weisenberger, seconded by Commissioner Hovda to approve the minutes of the January 25, 2021 meeting. All present voted yes. Motion carried.

**Temporary Water Applications – Non-Transferable**

H2O Connections, LLC – Permit Number – ND2021-20387 / PZ-2021-0005

Pumping of industrial water by lay flat hose; Doug Niemitalo, Landowner. SE1/4SW1/4 Section 12, Township 154, Range 91 West (Sikes Township)

Maverick Water Resources LLC – Permit Number – ND2020-20340 / PZ-2021-0016

Pumping of industrial water by lay flat hose; Doug Kinnoin, Landowner.

SW1/4SW1/4 Section 13, Township 154 North, Range 91 West (Sikes Township)

Maverick Water Resources LLC – Permit Number – ND2020-20339 / PZ-2021-0015

Pumping of industrial water by lay flat hose;Dakota Sky Properties LLC, Landowner.

E1/2 Section 11, Township 154 North, Range 91 West (Sikes Township)

Purity Oilfield Services, LLC,Permit Number – 6172 / PZ-2021-0019

Transferring of fresh water Outlot 1 of NWNW Section 15, Township 157 North, Range 90 West (Clear Water Township)to well pad in S1/2SE1/4 Section 16, Township 158, Range 91 West (Lostwood Township) via lay flat hose, Neal Biwer, Landowner.

**Building Permits**

None

**ONGOING BUSINESS:**

Gravel Pits

J&J Oilfield

Terry Jones

White Earth Bay

Green Acres

**Staff Concerns**

**Fritel Request:** discussion was had on Megan Fritel’s request to refund $250 variance application fee as well as $100 building permit fee associated with parcel # 100009820 located in Section 22, Township 157, Range 90 and described as Outlot 2, Government Lots 2, 3, & 7. Applications were submitted with the July 27, 2020 meeting and Sam Fritel withdrew the building permit #2121 request following discussion at the meeting and the variance having been denied. It was brought to their attention when visiting with Mr. Enget that they could come to the board for refunds. Commissioner Hollekim suggested Planning & Zoning advice future applicants of the risk of filing for multiple applications that if one application could be denied it would be a risk for the other application.

**Motion:** Moved by Commissioner Hollekim, seconded by Commissioner Gaaskjolen to refund the $100 building permit fee. Upon roll call, all present voted yes. Motion carried.

**Green Acres Subdivision:** still waiting for them to come forward with their letter of credit.

**Stanley Blaisdell RV Park:** Administrator Vachal stated she drove by and witnessed them burning their pit and saw they had one camper moved out. States Attorney Enget stated that Mountrail County Sheriff Corey Bristol is having patrols go through the area and they will let Planning & Zoning know if they see anything.

**Board Concerns**

Commissioner Weisenberger expressed concern about technology issues and not being able to hear people sometimes. States Attorney Enget suggested speaking closer to their microphone or using their phone for their audio.

Commissioner Ruland expressed concern about remembering to identify themselves before speaking and not talking over the top of others.

Chairman Sorenson expressed concern regarding the issues brought up during the Fritel hearing about not allowing spot zoning and the definition of variances and conditional use permits. Discussion was had on zoning ordinances and when to use a variance versus when to use a conditional use.

**Next Meeting**

Next regular meeting of the Mountrail County Planning & Zoning Board is ***Monday March 22, 2021*** at 8:30 am via GOTOMEETING or in the Commissioners room at the courthouse.

**Approval**

\*Electronic Recorded copy of minutes are kept in the office per NDCC 44-04

 Accepted and approved this 22th day of March 2021.

Charlie Sorenson, Chairman Melissa Vachal, Administrator

Mountrail County Mountrail County

Planning & Zoning Commission Planning & Zoning