MINUTES

**Mountrail County Planning & Zoning Commission**

**March 27, 2023**

The meeting of the Mountrail County Planning & Zoning Commission was called to order at 8:30 a.m. by Vice Chairman Zack Gaaskjolen with Commissioners Joan Hollekim, Arlo Borud, Roger Hovda, Doug Bratvold, Trudy Ruland, Lauren Frost, and Megan Fritel present. Also present were Planning & Zoning Administrator Melissa Vachal, Planning & Zoning Assistant Malinda Gunderson, Mountrail County Tax Equalization Director Lori Hanson, Mountrail County Property Assessor Hannah Collins, and Mountrail County State’s Attorney Wade Enget. Chairman Charlie Sorenson was absent at roll call but joined the meeting at 8:56 a.m. and the meeting was turned over to him to preside over at that time.

**APPROVAL OF AGENDA**

Moved by Commissioner Borud, seconded by Commissioner Hollekim, to approve the agenda as amended. All present voted yes. Motion carried.

**APPROVAL OF MINUTES**

Moved by Commissioner Ruland, seconded by Commissioner Fritel to approve the Planning and Zoning Commission minutes of the February 27, 2023 meeting. All present voted yes. Motion carried.

1. **8:35 a.m. WM D Scepaniak Inc.-Applicant; Bert D. Hauge-Landowner (PZ-2023-0032) Conditional Use**

Zoning Request/Conditional Use Permit for the following described property: a tract of land 50.00 acres more or less, located in the W1/2SW1/4 of Section 27, Township 153, Range 90 West (Wayzetta Township) (Parcel# 38-0011300)

The applicant (represented by Chuck Andrews with WM D Scepaniak Inc.) is seeking a Conditional Use Permit for the purpose of using land zoned Agricultural to mine gravel. No certified return receipts have been received by Administration at the time of this hearing. Mr. Edwards informed the board that he has not turned in the certified return receipts because he hasn’t received them yet but will send e-mail proof that the certified letters were sent to landowners to Administration. Commissioner Hollekim pointed out that there isn’t a copy of the signed gravel lease in the application file. Mr. Andrews stated they do have a lease that expires on 9/8/2024 and he will get that to Administration. Applicant has met all other requirements of the Planning & Zoning Board.

Moved by Commissioner Hollekim, seconded by Commissioner Frost to approve the zoning request filed by WM D Scepaniak Inc. with concurrence from Bert D. Hauge-landowner, for a Conditional Use Permit for the purpose of using land zoned Agricultural to mine gravel on a tract of land 50.00 acres more or less, located in the W1/2SW1/4 of Section 27, Township 153, Range 90 West (Wayzetta Township) expiring on 9/8/2024 contingent upon Administration receiving the certified return receipts and a copy of the signed gravel lease as WM D Scepaniak Inc. with concurrence from Bert D. Hauge-landowner, has met all criteria as set forth in the Mountrail County Land Development Code and is further contingent upon WM D Scepaniak Inc. with concurrence from Bert D. Hauge-landowner, complying with all other terms and conditions of the Mountrail County Land Development Code. All present voted yes. Motion carried.

1. **8:38 a.m. Robbie Edwards-Applicant; Susan Edwards-Landowner (PZ-2023-0034) Outlot Plat**

Outlot Plat Review Application for the following described property: a tract of land 36.70 acres more or less located in the SW1/4 of Section 14, Township 154 North, Range 89 West, to be known as Outlot 3 of the SW1/4 (Oakland Township) (Parcel# 30-0006000)

The applicant (represented by Robbie Edwards) is seeking an outlot plat for an irregular tract of land. Applicant has met all requirements of the Planning & Zoning Board.

Moved by Commissioner Borud, seconded by Commissioner Hovda to approve the zoning request of platting an outlot of land over 35 acres filed by Robbie Edwards with concurrence from Susan Edwards-landowner, for a tract of land 36.70 acres more or less located in the SW1/4 of Section 14, Township 154 North, Range 89 West to be known as Outlot 3 of the SW1/4 (Oakland Township). Robbie Edwards with concurrence from Susan Edwards-landowner, has met all criteria as set forth in Mountrail County Land Development Code. All present voted yes. Motion carried.

1. **8:41 a.m. Twyla Thorlaksen-Horvath-Applicant; Omar Farms Agricultural LLP-Landowner (PZ-2023-0044) Outlot Plat**

Outlot Plat Review Application for the following described property: a tract of land 93.72 acres more or less located in the SW1/4 of Section 8, Township 155 North, Range 92 West, to be known as Outlot 1 of the SW1/4 (Alger Township) (Parcel# 26-0003800)

The applicant (represented by Twyla Thorlaksen-Horvath) is seeking an outlot plat for an irregular tract of land. Applicant has met all requirements of the Planning & Zoning Board.

Moved by Commissioner Hollekim, seconded by Commissioner Fritel to approve the zoning request of platting an outlot of land over 35 acres filed by Twyla Thorlaksen-Horvath with concurrence from Omar Farms Agricultural LLP-landowner, for a tract of land 93.72 acres more or less located in the SW1/4 of Section 8, Township 155 North, Range 92 West to be known as Outlot 1 of the SW1/4 (Alger Township). Twyla Thorlaksen-Horvath with concurrence from Omar Farms Agricultural LLP-landowner, has met all criteria as set forth in Mountrail County Land Development Code. All present voted yes. Motion carried.

1. **8:44 a.m. Steel Reef Burke LLC-Applicant; Robert & Diana Gernand, Gary & Janet Gernand-Landowners (PZ-2023-0049) Amendment**

Amendment to Zoning Request for the following described property: a tract of land 5.75 acres more or less, in the SW1/4SW1/4 of Section 32, Township 156 North, Range 90 West to be known as Outlot 1 of the SW1/4SW1/4 (Palermo Township) (Parcel# 17-0016200)

The applicant (represented by Shawn Kavanagh with Steel Reef Burke LLC) is seeking an Amendment to Zoning to re-zone a tract of land from Agricultural to Industrial for the purpose of building a compressor station. Flora Davidson, a nearby landowner, approached the board with her objection to this project. Applicant has met all requirements of the Planning & Zoning Board.

Moved by Commissioner Borud, seconded by Commissioner Gaaskjolen to make recommendation to the Mountrail County Commissioners to approve the zoning request filed by Steel Reef Burke LLC with concurrence from Robert & Diana Gernand, Gary & Janet Gernand-landowners, for an amendment to change land zoned Agricultural to Industrial for the purpose of building a compressor station on a tract of land 5.75 acres more or less, in the SW1/4SW1/4 of Section 32, Township 156 North, Range 90 West to be known as Outlot 1 of the SW1/4SW1/4 (Palermo Township) as Steel Reef Burke LLC with concurrence from Robert & Diana Gernand, Gary & Janet Gernand-landowners, have met all criteria as set forth in the Mountrail County Land Development Code and is further contingent upon Steel Reef Burke LLC with concurrence from Robert & Diana Gernand, Gary & Janet Gernand-landowners, complying with all other terms and conditions of the Mountrail County Land Development Code. All present voted yes. Motion carried.

1. **8:47 a.m. Steel Reef Burke LLC-Applicant; Robert & Diana Gernand, Gary & Janet Gernand-Landowners (PZ-2023-0050) Conditional Use**

Zoning Request/Conditional Use Permit for the following described property: a tract of land 5.75 acres more or less, in the SW1/4SW1/4 of Section 32, Township 156 North, Range 90 West to be known as Outlot 1 of the SW1/4SW1/4 (Palermo Township) (Parcel# 17-0016200)

The applicant (represented by Shawn Kavanagh with Steel Reef Burke LLC) is seeking a Conditional Use Permit to use land zoned Industrial, contingent upon the approval of an Amendment to Zoning by the Mountrail County Commissioners, for a compressor station. Commissioner Ruland feels the applicant should have a road haul agreement during construction of the compressor station. Commissioner Hollekim agrees that they should have prior approval from the township. The board would like to table this until the next meeting so that the applicant can get the requested agreements and approvals from the township board.

Moved by Commissioner Hollekim, seconded by Commissioner Borud to table until the next meeting of the Mountrail County Planning & Zoning on 4/24/2023 the zoning request filed by Steel Reef Burke LLC with concurrence from Robert & Diana Gernand, Gary & Janet Gernand-landowners, for a Conditional Use Permit request to use land zoned Industrial, contingent upon the approval of an Amendment to Zoning by the Mountrail County Commissioners, for a compressor station on a tract of land 5.75 acres more or less, in the SW1/4SW1/4 of Section 32, Township 156 North, Range 90 West to be known as Outlot 1 of the SW1/4SW1/4 (Palermo Township) so the applicant can gather the requested road haul agreements and approvals from the township board. All present voted yes. Motion carried.

1. **8:50 a.m. Steel Reef Burke LLC-Applicant; Robert & Diana Gernand, Gary & Janet Gernand-Landowners (PZ-2023-0051) Variance**

Variance Application request for the following described property: a tract of land 5.75 acres more or less, in the SW1/4SW1/4 of Section 32, Township 156 North, Range 90 West to be known as Outlot 1 of the SW1/4SW1/4 (Palermo Township) (Parcel# 17-0016200)

The applicant (represented by Jennifer Schultz with Steel Reef Burke LLC) is seeking a variance because they are unable to meet the setbacks required by the Mountrail County Land Development Code. Ms. Schultz states they are asking for the variance rather than making plans to meet the setbacks because they would have to build a secondary access road to the planned compressor station which the landowners don’t want to happen. The board would like to table this until the next meeting so that the applicant can get the requested agreements and approvals from the township board as discussed in the CUP hearing.

Moved by Commissioner Borud, seconded by Commissioner Ruland to table until the next meeting of the Planning & Zoning board on 4/24/2023 the zoning request filed by Steel Reef Burke LLC with concurrence from Robert & Diana Gernand, Gary & Janet Gernand-landowners, for a Variance request because they are unable to meet the setbacks required by the Mountrail County Land Development Code on a tract of land 5.75 acres more or less, in the SW1/4SW1/4 of Section 32, Township 156 North, Range 90 West to be known as Outlot 1 of the SW1/4SW1/4 (Palermo Township) so the applicant can gather the requested road haul agreements and approvals from the township board. All present voted yes. Motion carried.

1. **8:53 a.m. Ahwah Energy LLC-Applicant; Mike & Brenda Kok-Landowners (PZ-2023-0045) Conditional Use**

Zoning Request/Conditional Use Permit for the following described property: a tract of land 10.00 acres more or less, described as the NW1/4NW1/4NW1/4 of Gov’t Lot 4 of Section 1, Township 153 North, Range 91 West (Crane Creek Township) (Parcel# 39-0000300)

The applicant (represented by Jason Baker with Ahwah Energy LLC and Todd Farden with Farden Construction) is seeking a Conditional Use Permit for the purpose of using land zoned Agricultural for a frack sand processing plant. Commissioner Ruland mentioned that the area they’re using has a large amount of leafy spurge and would like to know how they’re going to keep from spreading that. Mr. Farden stated they’ve already pre-treated the area to try to kill the leafy spurge and have a weed management plan with Mountrail County Weed Control. CUP will be valid for 5 years, expiring on 2/28/2028. Applicant has met all requirements of the Planning & Zoning Board.

Moved by Commissioner Hollekim, seconded by Commissioner Borud to approve the zoning request filed by Ahwah Energy LLC with concurrence from Mike & Brenda Kok-landowners, for a Conditional Use Permit for the purpose of using land zoned Agricultural for a frack sand processing plant on a tract of land 10.00 acres more or less, described as the NW1/4NW1/4NW1/4 of Gov’t Lot 4 of Section 1, Township 153 North, Range 91 West (Crane Creek Township) to be valid for a period of 5 years, expiring on 2/28/2028 as Ahwah Energy LLC with concurrence from Mike & Brenda Kok-landowners, has met all criteria as set forth in the Mountrail County Land Development Code and is further contingent upon Ahwah Energy LLC with concurrence from Mike & Brenda Kok-landowners, complying with all other terms and conditions of the Mountrail County Land Development Code. All present voted yes. Motion carried.

**Temporary Water Permits – New – For Board Information Only**

PZ-2023-0046 – Ahwah Energy LLC – Applicant. Mike & Brenda Kok – Landowners. State Water Permit #ND2023-21460. Period of Authorized usage: 4/15/2023 through 12/31/2023. Parcel #39-0000300. Pump placement on a tract of land 10.00 acres more or less located in the SE1/4NW1/4 of Section 1, Township 153 North, Range 91 West (Crane Creek Township) (11) CERTIFIED RECEIPTS RECEIVED Approved by P&Z Administrator on 3/17/2023

PZ-2023-0067 – H2O Connections – Applicant. James Enge – Landowner. State Water Permit #ND2023-21494. Period of Authorized usage: 3/6/2023 through 3/5/2024. Parcel #25-0017200. Pump placement on a tract of land 158.01 acres more or less located in the NE1/4 Less Outlots 1 & 2 of Section 36, Township 155 North, Range 91 West (Purcell Township) (10) CERTIFIED RECEIPTS RECEIVED Pending approval by P&Z Administrator on 3/27/2023

PZ-2023-0068 – Richard Jorgenson – Applicant/Landowner. State Water Permit #ND2023-21510. Period of Authorized usage: 3/15/2023 through 7/15/2023. Parcel #06-0008000. Pump placement on a tract of land 40.00 acres more or less located in the NE1/4NW1/4 of Section 18, Township 158 North, Range 93 West (Powers Lake Township) (7) CERTIFIED RECEIPTS RECEIVED Pending approval by P&Z Administrator on 3/28/2023

**Lay Flat Hose Permits – For Board Information Only**

Streamline Water Services LLC – Permit Number – State Water Permit ND2022-21287 / PZ-2023-0033. Pumping of industrial water by lay flat hose: Streamline Water Services LLC-Applicant. James Enge-Landowner. NW1/4 of Section 12, Township 155 North, Range 91 West (Purcell Township) ending in the SE1/4 of Section 36, Township 155 North, Range 91 West (Purcell Township). Period of Authorized usage: 10/11/2022 through 10/10/2023. Parcel #25-0005600 ending at #25-0017100. Approved by P&Z Administrator.

Williston Water Management – State Water Permit #7114 / PZ-2023-0035. Pumping of industrial water by lay flat hose: Williston Water Management – Applicant. N2NW1/4 of Section 34, Township 152 North, Range 92 West (Osborne Township) ending at SE1/4 of Section 24, Township 152 North, Range 93 West (Unorganized Township). Period of Authorized usage: 2/20/2023 through 5/21/2023. Parcel #46-0022800 ending at #47-0002700. Approved by P&Z Administrator.

Select Energy Services LLC – State Water Permit #ND2022-21287 / PZ-2023-0037. Pumping of industrial water by lay flat hose: Select Energy Services LLC – Applicant. James Enge - Landowner. NW1/4 of Section 12, Township 155 North, Range 91 West (Purcell Township) ending at NE1/4 of Section 9, Township 155 North, Range 91 West (Purcell Township). Period of Authorized usage: 10/11/2022 through 10/10/2023. Parcel #25-0005600 ending at #25-0003900. Approved by P&Z Administrator.

Ahwah Energy LLC – State Water Permit #ND2023-21460 / PZ-2023-0047. Pumping of industrial water by lay flat hose: Ahwah Energy LLC – Applicant. Mike & Brenda Kok - Landowners. SE1/4NW1/4 of Section 1, Township 153 North, Range 91 West (Crane Creek Township). Period of Authorized usage: 4/15/2023 through 12/31/2023. Parcel #39-000300. Approved by P&Z Administrator.

Select Energy Services LLC – State Water Permit #ND2022-21332 / PZ-2023-0064. Pumping of industrial water by lay flat hose: Select Energy Services LLC – Applicant. Ed Kreiger Estate - Landowner. NW1/4 of Section 10, Township 154 North, Range 94 West (Unorganized Township) ending at SE1/4 of Section 30, Township 155 North, Range 93 West (Debing Township). Period of Authorized usage: 2/1/2023 through 11/30/2023. Parcel #35-0004600 ending at #27-0014000. Approved by P&Z Administrator.

Northwest Water Transfer – State Water Permit #ND2023-21456 / PZ-2023-0065. Pumping of industrial water by lay flat hose: Northwest Water Transfer – Applicant. Beginning in Burke County NW1/4 of Section 27, Township 159 North, Range 93 West ending at NW1/4 of Section 16, Township 158 North, Range 93 West (Powers Lake Township). Period of Authorized usage: 2/27/2023 through 2/26/2024. Ending at Parcel #06-0007400. Approved by P&Z Administrator.

**Building Permits 2289-2291**

2289 – PZ-2023-0036 – John Anderson – Applicant. John Anderson & Shena Wold - Landowners. Parcel #51-0000609. Lot 9 of Brendle’s Subdivision located in the S1/2NE1/4 of Section 10, Township 151 North, Range 91 West (Liberty Township) 20’x22’ shed/workshop.

2290 – PZ-2023-0052 – Steel Reef Burk LLC – Applicant. Robert & Diana Gernand, Gary & Janet Gernand - Landowners. Parcel #17-0016200. SW1/4SW1/4 of Section 32, Township 156 North, Range 90 West to be known as Outlot 1 of the SW1/4SW1/4 of Section 32, Township 156 North, Range 90 West (Palermo Township) 45’2”x11’ compressor building.

2291 – PZ-2023-0066 – Landon & Julia Jones – Applicant. Leonard & Eileen Jones-Landowners. Parcel #23-0004900. NE1/4 of Section 11, Township 155 North, Range 89 West (McAlmond Township) 2256 sq. ft. house with basement & 2190 sq. ft. garage.

Moved by Commissioner Ruland, seconded by Commissioner Fritel to table building permit 2290 until the 4/24/2023 meeting as it coincides with the Variance and Conditional Use Permit applications that were already tabled. All present voted yes. Motion carried.

Moved by Commissioner Hollekim, seconded by Commissioner Fritel to approve building permits 2289 & 2291. All present voted yes. Motion carried.

**ONGOING BUSINESS**

Gravel Pits- Remains ongoing Administration working on Report

Green Acres Subdivision – No new activity; still no Letter of Credit

Subdivision Letter of Credit

**STAFF UPDATES**

* There were some building permits brought to Administration’s attention where the outside construction has been completed and now they are working on construction on the inside of the structure. Administration would to know if they need another building permit for the inside construction since the requirements have been met regarding the outside construction and Planning & Zoning doesn’t inspect the inside of buildings. Tax Director Lori Hanson would like to know when is the building considered completed if only the exterior has been built and there’s nothing done with the inside. Commissioner Hollekim referenced where the Land Development Code says if they’re “structurally altering” the building then a building permit is required. Commissioner Ruland feels that is getting close to having to get into building codes and inspection and feels the building permit should be more for the footprint of the building not the interior. The board feels this isn’t any of Planning & Zoning’s concern because they can’t enter the building. Chairman Sorenson feels it should be done the way it’s always been done, when Administration drives by and sees that the structure appears finished. Commissioner Hollekim feels maybe this should be defined better the next time the zoning ordinances are updated.
* Administration had a question about the releasing of the Letter of Credit because there are several gravel pits about to roll into the new LOC requirements. Administration would like to know if these will need board approval to be released or if it can be done administratively if there is a new LOC to cover the acreage. Since they are now allowed to have one LOC to cover all of their acreage rather than needing an LOC for each gravel pit, banks are sending the new LOC to P&Z and the companies are requesting the old ones to be released. State’s Attorney Enget stated the board can give Administration the authority to release the old LOC’s by a motion.
	+ Moved by Commissioner Ruland, seconded by Commissioner Gaaskjolen to authorize Planning & Zoning Administration to release any old Letter of Credit as needed when a new Letter of Credit has been given to P&Z. All present voted yes. Motion carried.
* Administration has been notified that the rail facility near Palermo had a spill in October 2022 and a representative of the company has contacted the office to see if there was a need for a Conditional Use Permit or a Variance for the cleanup process. State’s Attorney Enget doesn’t feel what they’re doing falls under anything in the Land Development Code and stated they are doing everything onsite and nothing is being brought in from elsewhere. The water being used to for the cleanup is coming from onsite as well. The company provided Administration with a Land Treatment Variance Application which Administrator Vachal didn’t feel comfortable signing and felt that it should be Chairman Sorenson that signs off on it.
	+ Moved by Commissioner Ruland, seconded by Commissioner Frost to allow Chairman Sorenson to sign off on the Land Treatment Variance Application acknowledging the waste management or land activities do not interfere with any regulations set forth in the Mountrail County Land Development Code. All present voted yes. Motion carried.

**BOARD CONCERNS**

None.

The Board adjourned at 10:32 a.m. Next regular meeting of the Mountrail County Planning & Zoning Commission is **Monday, April 24, 2023,** at 8:30 am via GOTOMEETING or in the Commissioners room at the courthouse.

Accepted and approved this 24th day of April, 2023.

Charlie Sorenson, Chairman Melissa Vachal, Administrator

Mountrail County Mountrail County

Planning & Zoning Commission Planning & Zoning

**\*Electronic recordings of full meetings are kept in the office per NDCC 44-04\***