

# MINUTES

## Mountrail County Planning and Zoning Commission March 27, 2017

---

Mountrail County South Complex 8103 61<sup>st</sup> St NW Stanley, ND 58784

---

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

---

### In Attendance

---

**Board members present:** Roger Hovda, Charlie Sorenson, Gary Weisenberger, Bill Klug, Tom Bieri and Trudy Ruland. Also present: Lori Hanson, Mountrail County Tax Director, Teresa Captain, Mountrail County Deputy Tax Director, Jana Heberlie, Mountrail County Road & Bridge, 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. Absent were Linda Wienbar and Arlo Borud.

---

### Approval of Agenda

---

Chairman Hovda requested a motion to review and approve the current meeting agenda. Lisa Lee, Planning & Zoning Administrator requested to add the Vachal Gravel Pit bond release and the appointment of Planning and Zoning Boards new member as additional staff items. Commissioner Ruland moved to accept the agenda with the proposed additions, Commissioner Klug seconded. Upon roll call all present voted yes. Motion carried.

---

### 8:30 Public Hearing

### Variance Permit

---

**Applicant/Landowner:** Basin Electric Power Coop/Robert Wirtz

**Location:** E $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$  of Section 19, Township 156 North, Range 88 West (**Egan Township**).

**Purpose:** Basin Electric Power Coop has requested to use land zoned agricultural for a temporary substation material storage area.

**Number of certified mailing receipts provided:** Two

**Present:** Jon Madison and Tyler McNulty of Basin Electric Power Coop.

**Discussion:** Mr. Madison stated they are building a proposed transmission line and need a location to store the material that will be used. Lisa Lee, Planning & Zoning Administrator stated the legal description was changed to narrow down the area. Administrator Lee stated she worked with Mr. Madison of Basin Electric Power Coop and the legal was updated to E $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$  lying south of Highway 2. Mr. McNulty stated they would need until the end of 2017 to finish the project and clean up the location.

**Outcome: Approved**

**Motion:** Moved by Vice Chairman Sorenson, seconded by Commissioner Ruland to approve the zoning request filed by Basin Electric Power Cooperative in concurrence with Robert Wirtz, landowner, for a variance to use land zoned agricultural for a temporary substation material storage area on a 40 acre +/- tract of land in the E $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$  lying south of Highway 2, Section 19, Township 156, Range 88 (**Egan**

**Township)** expiring December 31, 2017 as Basin Electric Power Cooperative has met all the criteria as set forth in Article IV, Section V in the Mountrail County Zoning Ordinance and is further contingent upon Basin Electric Power Cooperative complying with all other regulations as set forth in the Mountrail County Zoning Ordinances. Upon roll call, all present voted yes. Motion carried.

---

**8:33 Public Hearing                      Conditional Use Permit – Gravel Pit**

---

**Applicant/Landowner:** Fisher Sand & Gravel Co/Jeff & Nancy Larson

**Location:** W½NE¼ of Section 20, Township 157 North, Range 94 West (**White Earth Township**).

**Purpose:** Gravel Pit.

**Number of certified mailing receipts provided:** Four

**Present:** Vent Wallace & Brian Reisenaur of Fisher Sand and Gravel Company

**Discussion:** Lisa Lee, Planning & Zoning Administrator stated this is a preexisting pit. It was approved in 2012 but not recorded. We have received a road haul agreement with White Earth Township as well as a road haul agreement with Mountrail County Road and Bridge. Fisher Sand & Gravel Co has also provided a reclamation agreement and a \$125,000.00 Letter of Credit. Mr. Wallace with Fisher Sand and Gravel Company stated this pit is to mine gravel for the NDDOT project SOIB-7-002(165)054 (Highway 2/Williams County). Commissioner Ruland stated Fisher Sand and Gravel would need to work with the landowners and White Earth Township for permission to use 69<sup>th</sup> street NW east from 101<sup>st</sup> avenue NW which is how Fisher Sand and Gravel accesses their pit. Vice Chairmen Sorenson stated the road haul agreement with White Earth Township would need to include using 69<sup>th</sup> street NW east of 101<sup>st</sup> avenue NW. The current road haul agreement only addresses 101<sup>st</sup> Ave NW. Chairmen Hovda asked the amount of gravel to be mined. Mr. Reisenaur stated it is a summer project for Highway 2 and is approximately 100 ton worth of material. Chairmen Hovda asked if there were residences close to the pit. It was determined there are homes a mile southwest of the pit. The route Fisher Sand and Gravel would haul from their pit in Section 20 is west on 69<sup>th</sup> Street NW to 101<sup>st</sup> Avenue NW, then turning south on 101<sup>st</sup> Avenue NW to 68<sup>th</sup> Street NW and then turning west on 68<sup>th</sup> Street NW to the county line. Chairman Hovda stated Fisher would need to get a more detailed road haul agreement from White Earth Township that would include the part of 69<sup>th</sup> Street NW used to access the pit as well as dust control and building the road to township specifications. Mr. Wallace stated he would meet with Mr. Jason Rice of White Earth Township to get the road haul agreement revised.

**Outcome: Approved with contingencies**

**Motion:** Moved by Vice Chairman Sorenson, seconded by Commissioner Weisenberger to approve a zoning request filed by Fisher Sand & Gravel Co with concurrence from Jeff & Nancy Larson, 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 W½NE¼ of Section 20, Township 157 North, Range 94 West (**White Earth Township**) for a period of five (5) years contingent on receiving a revised signed road haul agreement with White Earth Township that includes road specifications, dust control, permission to travel on 69<sup>th</sup> Street NW and 101<sup>st</sup> Avenue NW and on receiving written permission from the landowners along 69<sup>th</sup> street NW to travel on that road. Fisher Sand & Gravel Co is required to provide a \$125,000.00 letter of credit to be renewed and filed with the Planning & Zoning office annually for five years as Fisher Sand & Gravel Co has met all the criteria as set forth in Article IV, Section IV in the Mountrail County Zoning Ordinance and is further contingent upon Fisher Sand & Gravel Co complying with all other regulations as set forth in the Mountrail County Zoning Ordinances. Upon roll call, all present voted yes. Motion carried.

**Applicant/Landowner:** Fisher Sand & Gravel Co

**Location:** N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$  Less Right of Way of Section 33, Township 153 North, Range 92 West (**Knife River Township**).

**Purpose:** Gravel Pit

**Number of certified mailing receipts provided:** Four

**Present:** Vent Wallace & Brian Reisenaur of Fisher Sand and Gravel Company. Also present were Ronald & Joyce Hansen, Sheri Dokkeiv, and Allen J Schlag.

**Discussion:** Lisa Lee, Planning & Zoning Administrator stated Planning & Zoning had received a letter and a phone call from Mr. & Mrs. Hanson regarding fences, cattle and dust. We also received comments from Mr. Olson expressing concerns about dust. Lisa Lee, Planning & Zoning Administrator stated a road haul agreement from Knife River Township has not been received. Administrator Lee stated the pit due east of this location (the Peterson Pit) was mined in 2011 with no application or permit. Fisher Sand and Gravel Company had communicated with Administrator Lee regarding stockpiling material in the Peterson Pit and there was a question about if an additional conditional use permit was required. Mr. Wallace stated this pit was for the NDDOT ss-soib-7-804(050)/1804 from New Town ND to Ross Road. Mr. Wallace confirmed Fisher Sand & Gravel Co wanted to stockpile on the Peterson Pit and would be accessing a Township road to the North. Mr. Wallace stated is working with Mr. Jerry Uran regarding a road haul agreement.

Mr. Hansen was present to express concerns about the large amount of dust that covers his home located north of the Peterson Pit. The Peterson Pit is located on a hill and the wind carries any dust right to their home. Mr. Hansen asked if Fisher could stockpile in a different location.

Chairman Hovda asked if there was another location Fisher Sand and Gravel could stockpile. Mr. Reisenaur stated this time they are only doing class 5 road mix, so the dust will be less. Chairman Hovda confirmed no asphalt would be made there. Mr. Reisenaur agreed. Chairman Hovda asked if water could be added to the stockpiles. Mr. Reisenaur stated they could add water to the crusher and install misters.

Mr. Allen Schlag, Mr. Hansen's stepson, stated the dust from the Peterson Pit was so thick it was unhealthy as the Peterson Pit is approximately 350 feet from the Hansen front door. When the Hansen's work their cows, they end up covered with dust and have dirt masks. The Peterson Pit has been basically retired, so it's covered with hardened sand and grass holding the dust down. Mr. Schlag stated if Fisher Sand and Gravel is allowed to stockpile or mine that pit again, the dust will increase to unhealthy levels once again.

It was determined that the Peterson Pit was not permitted in 2011 and is not a permitted pit now. A brief discussion was held on the Peterson Pit mining a section line. Vice Chairman Sorenson asked if Fisher Sand and Gravel could stockpile material south of Highway 1804. Mr. Wallace stated the material needed is on the north side of Highway 1804 so they would have to truck it to the south side if they were to use that location for the stockpile. Mr. Reisenaur stated they will be crushing for about 4 weeks and a different contactor will be hauling out the material. Mr. Reisenaur stated while they will be mining on the south side, most of the needed material is on the north side. Fisher Sand and Gravel intends to remove the existing stockpiles on the Peterson Pit and reclaim it once the material is removed. They have an agreement with the landowner, Jack Peterson. Vice Chairman Sorenson stated it appears Fisher Sand and Gravel is doing something that is not listed on their application as the Peterson Pit is not included,

therefore the Planning and Zoning Board will only address the application that was presented. To be able to stockpile or mine the Peterson Pit, Fisher Sand and Gravel would need to submit an application requesting that. Mr. Wallace stated Fisher has an agreement with the Peterson's to stockpile on their land. Wade Enget, Mountrail County States Attorney stated there was no public notice about this and no application requesting the land to be used for something other than agricultural purposes, so stockpiling there is not allowed.

Chairman Hovda asked of ways to keep the dust down for the entire summer. Mr. Reisenaur stated adding the water while crushing and applying dust suppression on the roads would help. Chairman Hovda expressed concerns about the Peterson Pit not being a permitted pit. He stated this needs to be cleaned up and they need to get a better understanding of what is there. Lisa Lee, Planning & Zoning Administrator will take a trip out there to investigate and report back to Planning and Zoning Board. Mr. Reisenaur stated they could use the south side of the Highway 1804 for a stockpile location. Vice Chairman Sorenson stated with their application as it stands now, storing stockpiles on south side of Highway 1804 could be allowed if the permit was approved. Access to Highway 1804 was discussed and it was determine that Fisher Sand and Gravel should ask for a temporary approach permit from the North Dakota Department of Transportation to be able to go straight across Highway 1804 instead of having to turn to the west to use the approach already there. Chairman Hovda asked the Hanson family if moving the stockpile to the south side of Highway 1804 would help with the dust. They stated not as much as one would hope, but it would help. Vice Chairman Sorenson asked if Fisher Sand and Gravel would remove the stockpile once they were done. Mr. Wallace stated the entire stockpile would be used and once it is, they will reclaim the land and sell it. Chairman Hovda asked when Fisher would like to start this project and when it would be done. Mr. Reisenaur stated they would like to start the project right away and the end date is scheduled for November 30, 2017. Commissioner Ruland stated for Fisher Sand and Gravel to start right away, they would only be permitted to operate per the application they submitted, which is 36.07 acres. To be able to use the Peterson Pit, Fisher Sand and Gravel would need to submit a new application and go through the public hearing process. A discussion was held about fence placement.

**Outcome: Approved with contingencies**

**Motion:** Moved by Vice Chairman Sorenson, seconded by Commissioner Klug to approve a zoning request filed by Fisher Sand & Gravel Co, landowner, for a conditional use permit to use land zoned agricultural for mining gravel on a 36.07 acre, more or less, tract of land described as N½SW¼NW¼, SE¼NW¼NW¼, E½NE¼NW¼NW¼, E½SW¼NW¼NW¼ Less Right of Way of Section 33, Township 153 North, Range 94 West (**Knife River Township**) contingent upon requiring any stockpiles of gravel to be place on the south side of Highway 1804, applying to NDDOT for temporary approach to go straight across Highway 1804 from 87<sup>th</sup> drive NW, a road haul agreement from Knife River Township to use 87<sup>th</sup> drive NW, dust suppression on 87<sup>th</sup> drive NW, dust suppression and misters to be used when doing crushing operations and a \$125,000.00 letter of credit to be renewed and filed with the Planning & Zoning Office and with all operations ending and reclamation done by November 30, 2017 as Fisher Sand & Gravel Co has met all the criteria as set forth in Article IV, Section IV in the Mountrail County Zoning Ordinance and is further contingent upon Fisher Sand & Gravel Co complying with all other regulations as set forth in the Mountrail County Zoning Ordinances. Upon roll call, all present voted yes. Motion carried.

---

**Approval of Minutes**

---

**Motion:** Moved by Commissioner Wiesenberger, seconded by Commissioner Ruland to approve the February 27, 2017 minutes as written. U pon roll call, all present voted yes. Motion carried.

---

## Approval of Building Permits

---

**Motion:** Moved by Commissioner Ruland, seconded by Commissioner Bieri to approve building permits #1964-1967. Upon roll call, all present voted yes. Motion carried.

---

## Staff Concerns

---

- OneOK is looking to expand existing compressor station the NE of Section 4, Township 150 North Range 93 West (Unorganized township) and would like to inquire about a variance to be 35 feet from the east section line 30<sup>th</sup> St. NW & 93<sup>rd</sup> Ave NW, which is just outside the statutory 33ft. Tom Giltner was present for an informal discussion regarding setbacks to see if they could get the variance as it is easier to build east due to the landscape. There is no existing road at section line. It was determined that no permanent structures could be within 150' of a section line.
- Ron Humbert zoning violation & proposed solution: This violation is located in the N½NWNWNE of Section 10, Township 155 North, Range 89 West (McAlmond Township) and is zoned agricultural. Mr. Humbert would like to rezone to industrial but wants to find a way to allow for a living quarters on site. Lisa Lee, Planning & Zoning Administrator had requested Mr. Humbert's presence at this meeting before we sent him out to survey and do an Outlot or split lots. However, Mr. Humbert was unable to attend. This piece of property does not sit close to a road. It was determined that this property could not be zoned industrial and Wade Enget, Mountrail County States Attorney will send him a letter advising him of this.
- Release of bond: Planning and Zoning has received a request to release the bond from the gravel pit operated by Mon-Dak Septic & Sewer in Debing Township W½SE¼ Section 31, Township 155 North, Range 93 West. This pit was approved May 27, 2014. Planning and Zoning has also received a letter from John Vachal, landowner, stating reclamation has been completed to landowner satisfaction. There are stockpiles remaining at this site. It was agreed that a road haul agreement with Debing Township would be necessary when Mon-Dak Septic & Sewer removes the stockpiles as Mon-Dak Septic & Sewer would be using 95<sup>th</sup> Ave NW.

Moved by Commissioner Ruland, seconded by Commissioner Klug to approve the bond release on the gravel pit operated by Mon-Dak Septic & Sewer in the W½SE¼ Section 31, Township 155 North, 93 West (Debing Township) as John Vachal, landowner, signed a pit release. Mon-Dak Septic & Sewer is required to get a road haul agreement with Debing Township when they remove the stockpiles that remain at the pit. Upon roll call, all present voted yes. Motion carried

- Planning and Zoning would like to announce the appointment of Brittany Uran to Planning and Zoning Board representing District 2. Brittany's 1<sup>st</sup> meeting will be April 24, 2017.
- Setbacks - Lisa Lee, Planning & Zoning Administrator asked the Board if the setback requirements should be changed in the Ordinance to reflect the 75' setbacks from the center line of the road or leave it at 150'. Wade Enget, Mountrail County States Attorney suggested a 75' no build zone as well as creating a utility corridor. More discussion was held on setbacks and requiring a waiver.

- Dunn County Supreme Court decision: Each Board member received a copy of this decision relating to State versus local zoning control related to oil and gas infrastructure. A brief discussion was held on what this means to Mountrail County.
- Ordinance verbiage “permitted use” vs. “allowable use” suggestion: Planning and Zoning proposes to help reduce confusion between uses that need permits and uses which are allowed per the ordinances, to change verbiage to “allowable use.”
- Combining Subdivision Resolution with Zoning Ordinance Book – In an effort to save money and time, Planning and Zoning would like to combine the Subdivision Resolution within our existing Mountrail County Zoning Ordinance. This change would come into effect at the next rewrite.
- Planning and Zoning will continue to put together ideas for rural residential verbiage. Once we have a complete document, we will submit it to the board for final approval. It is Planning and Zoning’s goal to update the ordinances once every other year. We will continue to discuss and collect changes this year until we have a complete working draft. This draft will then be made available for public comment when significant progress has been made.

---

### **Board Concerns**

---

Commissioner Ruland stated Planning and Zoning should add a piece to the Zoning Ordinance that addresses stockpiling and the related requirements. A discussion was held about closing a section line. Commissioner Klug stated at some point Mountrail County Planning and Zoning needs to address reclamation on gravel pits.

---

### **Next Meeting**

---

Next regular meeting of the Mountrail County Planning & Zoning Board is Monday, April 24, 2017 at 8:30 am at the Mountrail County South Complex, 8103 61<sup>st</sup> St. NW Stanley, ND 58784.

Meeting was adjourned at 10:00 a.m.

---

### **Approval**

---

Accepted and approved this 24<sup>th</sup> day of April 2017

---

Roger Hovda, Chairman  
Mountrail County  
Planning & Zoning Commission

---

Liz Hollowell  
Administrative Assistant  
Planning & Zoning