

PROCEEDINGS OF THE MOUNTRAIL COUNTY PLANNING & ZONING COMMISSION  
Monday July 28, 2014

The Mountrail County Planning & Zoning Commission met on Monday, July 28, 2014 at the Mountrail County South Complex with the following voting members present: Arlo Borud, Roger Hovda, David J. Hynek, Chase Lindberg, Trudy Ruland, Gary Weisenberger and Linda Wienbar. Members absent were Rosemarie Bieri and Terry Mathson. Also present were Lori Hanson, Mountrail County Tax Equalization Director, Wade Enget, Mountrail County States Attorney, Teresa Captain, Mountrail County Auditor's Office and Lisa Lee, Mountrail County Assistant Zoning Administrator/Planner.

Vice Chairman Hynek called the meeting to order at 8:30 a.m. Linda Wienbar was introduced as the new representative from Stanley's City Council replacing Michael Hynek, who retired.

Vice Chairman Hynek called the 8:30 a.m. public hearing to order regarding the zoning request filed by Dennis Weflen for a conditional use permit to use land zoned residential for the placement of two modular homes on a 5 acre, more or less, tract of land described as the N $\frac{1}{2}$ NE $\frac{1}{4}$  of Government Lot 1, Section 6, Township 157 North, Range 94 West (White Earth Township). Present for this discussion was Dale Weflen representing Dennis Weflen. Staff distributed a letter from June McGuinness with comments regarding this project. Mr. Weflen presented three (3) certified mail return receipt cards from adjacent landowners, stated these would be two mobile (manufactured homes) for rental property and asked about the length of the term of the conditional use permit.

Moved by Commissioner Weisenberger, seconded by Commissioner Hovda to approve the conditional use permit filed by Dennis Weflen to use land zoned residential for the placement of two modular homes on a 5 acre, more or less, tract of land described as the N $\frac{1}{2}$ NE $\frac{1}{4}$  of Government Lot 1, Section 6, Township 157 North, Range 94 West (White Earth Township) with the stipulation that if the property is not used for mobile (manufactured) homes for a period of two years this conditional use permit would expire, as Dennis Weflen has met all criteria as set forth in Article IV, Section IV, Paragraph E of the Mountrail County Zoning Ordinance as is contingent upon Dennis Weflen complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes motion carried.

Vice Chairman Hynek called the 8:35 a.m. public hearing to order regarding the zoning request filed by Butch & Sundance, with concurrence from Terry Anderson, landowner for a variance to use land zoned agricultural for the purpose of drawing slough water for fracking on a 160 acre, more or less, tract of land described as NE $\frac{1}{4}$  Section 9, Township 154 North, Range 93 West (Rat Lake Township). Present for this discussion was Rocky Stubbs representing Butch & Sundance who presented four (4) certified mail receipts from adjacent landowners. Discussion included how the water will be transported, road constructed on section line, and road haul agreement with Rat Lake Township.

Moved by Commissioner Borud, seconded by Commissioner Ruland to approve the variance filed by Butch & Sundance, with concurrence from Terry Anderson, landowner, to use land zoned agricultural for the purpose of drawing slough water for fracking on a 160 acre, more or less, tract of land described as NE $\frac{1}{4}$  Section 9, Township 154 North, Range 93 West (Rat Lake Township) contingent upon Butch & Sundance filing a road haul agreement between Butch & Sundance and Rat Lake Township with the Planning &

Zoning office before pumping of water can begin as per the terms and conditions of State of North Dakota Temporary Water Permit SWC Project No. 1400A Permit Number ND2014-15841, as Butch & Sundance has met all criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is contingent upon Butch & Sundance complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes motion carried.

Vice Chairman Hynek called the 8:40 a.m. public hearing to order regarding the zoning request filed by Municipal Shale LLC, with concurrence from Nelson Land Holdings LLLP, landowner, for a conditional use permit to use land zoned agricultural for the purpose of placing a 400' guyed tower on a 10,000 square foot, more or less, tract of land located in the E $\frac{1}{2}$ NW $\frac{1}{4}$  Section 19, Township 156 North, Range 94 West (Myrtle Township). Present for this discussion via telephone was John Throckmorton, Municipal Shale LLC. Staff reported the receipt of two (2) certified mail return receipt cards from the adjacent landowners. Discussion included anchor tenant is AT&T, fourth cell tower, location of cell tower, and 100' x 100' feet does not include the anchor points.

Moved by Commissioner Hovda, seconded by Commissioner Borud to approve the conditional use permit request filed by Municipal Shale LLC, with concurrence from Nelson Land Holdings LLLP, landowner, to use land zoned agricultural for the purpose of placing a 400' guyed tower on a 10,000 square foot, more or less, tract of land located in the E $\frac{1}{2}$ NW $\frac{1}{4}$  Section 19, Township 156 North, Range 94 West (Myrtle Township) as Municipal Shale LLC has met all criteria as set forth in Article IV, Section IV, Paragraph E of the Mountrail County Zoning Ordinance and is contingent upon the provision Municipal Shale LLC comply with all other regulations of the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes motion carried.

Vice Chairman Hynek called the 8:45 a.m. public hearing to order to discuss the zoning request filed by Municipal Shale LLC, with concurrence from Nelson Land Holdings LLLP, landowner, for a variance to use land zoned agricultural to locate a 400' guyed tower which exceeds the 90' maximum height allowable in Mountrail County on a 10,000 square foot, more or less, tract of land located in the E $\frac{1}{2}$ NW $\frac{1}{4}$  Section 19, Township 156 North, Range 94 West (Myrtle Township). Present for this discussion via telephone was John Throckmorton, Municipal Shale LLC. Staff reported the receipt of two (2) certified mail return receipt cards from adjacent landowners.

Moved by Commissioner Borud, seconded by Commissioner Weisenberger to approve the variance filed by Municipal Shale LLC, with concurrence from Nelson Land Holdings LLLP, landowner, to use land zoned agricultural to locate a 400' guyed tower which exceeds the 90' maximum height allowable in Mountrail County on a 10,000 square foot, more or less, tract of land located in the E $\frac{1}{2}$ NW $\frac{1}{4}$  Section 19, Township 156 North, Range 94 West (Myrtle Township) as Municipal Shale LLC has met the criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is contingent upon Municipal Shale LLC complying with all other regulations of the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes motion carried.

Vice Chairman Hynek called the 8:50 a.m. public hearing to order to discuss the zoning request filed by Bison Midstream LLC, with concurrence from Allen & Debra Lund, landowners, for an amendment to the Mountrail County Zoning Map to rezone a 6.6 acre, more or less, tract of land described as Outlot 1 of

Government Lot 3 in Section 30, Township 156 North, Range 92 West (Ross Township) from agricultural to industrial for the purpose of installing a gas compressor station. Present for this discussion was Tracey Jensen, Bison Midstream LLC. Ms. Jensen presented four (4) certified mail return receipt cards from the adjacent landowners. Discussion included the closest residences to the site.

Moved by Commissioner Borud, seconded by Commissioner Hovda to present findings of fact from the July 28, 2014 public hearing and make a recommendation to the Mountrail County Commission for approval of the zoning request filed by Bison Midstream LLC, with concurrence from Allen & Debra Lund, landowners, to rezone a 6.6 acre, more or less, tract of land described as Outlot 1 of Government Lot 3 in Section 30, Township 156 North, Range 92 West (Ross Township) from agricultural to industrial for the purpose of installing a gas compressor station as Bison Midstream LLC has met all criteria as set forth in Article IV, Section III, Paragraph E of the Mountrail County Zoning Ordinance and is further contingent upon Bison Midstream LLC complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes motion carried.

Vice Chairman Hynek called the 8:55 a.m. public hearing to order to discuss the zoning request filed by Bison Midstream LLC, with concurrence from Allen & Debra Lund, landowners, for a conditional use permit to use land zoned industrial for the purpose of installing and operating a gas compressor station on a 6.6 acre, more or less, tract of land described as Outlot 1 of Government Lot 3 Section 30, Township 156 North, Range 92 West (Ross Township). Present for this discussion was Tracey Jensen, Bison Midstream LLC who had presented four (4) certified mail return receipt cards from the adjacent landowners.

Moved by Commissioner Hovda, seconded by Commissioner Borud to approve the conditional use permit filed by Bison Midstream LLC, with concurrence from Allen & Debra Lund, landowners, to use land zoned industrial for the purpose of installing and operating a gas compressor station on a 6.6 acre, more or less, tract of land described as Outlot 1 of Government Lot 3 Section 30, Township 156 North, Range 92 West (Ross Township) contingent upon the approval of the zoning amendment by the Mountrail County Commission as Bison Midstream LLC has met all criteria as set forth in Article IV, Section IV, Paragraph E of the Mountrail County Zoning Ordinance and is further contingent upon Bison Midstream LLC complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes motion carried.

Vice Chairman Hynek called the 9:00 a.m. public hearing to order to discuss the zoning request filed by Daniel Farhart for a variance to use land zoned agricultural for the purpose of drawing slough water for fracking on a 160 acre, more or less, tract of land described as the NW¼ Section 22, Township 157 North, Range 92 West (Cottonwood Township). No one was present representing Daniel Farhart. Staff reported no certified mail return receipt cards from adjacent landowners had been received. Concerns regarding how the water was going to be transported were discussed.

Moved by Commissioner Borud, seconded by Commissioner Ruland to table action on this request due to the lack of certified mail return receipt cards from adjacent landowners and no one present to answer the questions from the Board. Upon roll call vote all present voted yes motion carried.

Vice Chairman Hynek called the 9:05 a.m. public hearing to order to discuss the zoning request filed by Jared Stubbs, with concurrence from Jerry Wurtz and Richard Wurtz Jr; Carroll, Veronica M., Andrew & Ashley Vye; and Denise L. Gordon, landowners for a variance to draw slough water for fracking on a 160 acre, more or less, tract of land described as NW¼ Section 17, Township 152 North, Range 88 West (Plaza Township). Present for this discussion was Rocky Stubbs representing Jared Stubbs. Mr. Stubbs presented five (5) certified mail receipts from envelopes sent to the adjacent landowners. Discussion included how the water was going to be transported by trucks, a letter from the Plaza Township Board of Supervisors, signatures of all landowners, dirt trail, and maintenance/improvement of road.

Moved by Commissioner Borud, seconded by Commissioner Ruland to approve the variance filed by Jared Stubbs, with concurrence from Jerry Wurtz and Richard Wurtz Jr; Carroll, Veronica M., Andrew & Ashley Vye; and Denise L. Gordon, landowners for a variance to draw slough water for fracking on a 160 acre, more or less, tract of land described as NW¼ Section 17, Township 152 North, Range 88 West (Plaza Township) contingent upon obtaining signatures of all the landowners or proper paperwork authorizing Jerry Wurtz to sign on behalf of the other landowners as Jared Stubbs has met the requirements as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is contingent upon Jared Stubbs complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes motion carried.

Vice Chairman Hynek called the 9:10 a.m. public hearing to order to discuss the zoning request filed by Dakota Gold Transfer Plaza LLC, with concurrence from Robert A. & Susan K. Erickson, landowners, for an amendment to the Mountrail County Zoning Map to rezone a 154.77 acre, more or less, tract of land described as the SW¼ less Outlot 1, Section 3, Township 152 North, Range 88W (Plaza Township) from agricultural to industrial to accommodate an oil transfer loading facility. Present for this discussion was Cody Moe, Dakota Gold Transfer Plaza LLC; Becky Hogan, R&R Engineers; Michelle Rogers, Shane Erickson, Wayne Olson, Gordon Lien, Bob Kok, Brad Blesie, Trailstone Group, Gary Lien, Mark Kok, and Ole Lynne. Staff reported a letter had been received from Quinten Bangen with concerns about having two of these types of facilities in Plaza Township. Cody Moe presented six (6) certified mail return receipt cards from adjacent landowners. Discussion included how oil will be brought to the facility, truck traffic, county roads impacted by this facility, haul agreement with Plaza Township, rebuilding roads, having met with the Plaza Fire Department & Plaza Ambulance Service, two access points, strictly an oil transloading facility, written road agreement with the County for using County roads, and the property will not be fenced.

Moved by Commissioner Hovda, seconded by Commissioner Borud to present findings of fact from the July 28, 2014 public hearing and make a recommendation to the Mountrail County Commission for approval of the zoning request filed by Dakota Gold Transfer Plaza LLC, with concurrence from Robert A. & Susan K. Erickson, landowners, for an amendment to the Mountrail County Zoning Map to rezone a 154.77 acre, more or less, tract of land described as the SW¼ less Outlot 1, Section 3, Township 152 North, Range 88W (Plaza Township) from agricultural to industrial to accommodate an oil transfer loading facility as Dakota Gold Transfer Plaza LLC contingent upon Dakota Gold Transfer Plaza LLC meeting the County standards for the upgrading of the County road as Dakota Gold Transfer Plaza LLC has met all criteria as set forth in Article IV, Section III, Subsection E of the Mountrail County Zoning Ordinance and is contingent upon Dakota Gold Transfer Plaza LLC complying will all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes motion carried.

Vice Chairman Hynek called the 9:15 a.m. public hearing to order regarding the zoning request filed by Dakota Gold Transfer Plaza LLC, with concurrence from Robert A. & Susan K. Erickson, landowners for a conditional use permit to use land zoned industrial for oil storage on a 154.77 acre, more or less, tract of land, described as the SW¼ less Outlot 1, Section 3, Township 152 North, Range 88 West (Plaza Township). Present for this discussion was Cody Moe, Dakota Gold Transfer Plaza LLC; Becky Hogan, R&R Engineers; Michelle Rogers, Shane Erickson, Wayne Olson, Gordon Lien, Bob Kok, Brad Blesie, Trailstone Group, Gary Lien, Mark Kok, and Ole Lynne. Staff reported a letter had been received from Quinten Bangen with concerns about having two of these types of facilities in Plaza Township. Cody Moe presented six (6) certified mail return receipt cards from adjacent landowners.

Moved by Commissioner Borud, seconded by Commissioner Ruland to approve the conditional use permit filed by Dakota Gold Transfer Plaza LLC, with concurrence from Robert A. & Susan K. Erickson, landowner, to use land zoned industrial for oil storage on a 154.77 acre, more or less, tract of land, described as the SW¼ less Outlot 1, Section 3, Township 152 North, Range 88 West (Plaza Township) contingent upon the approval of the zoning amendment by the Mountrail County Commission as Dakota Gold Transfer Plaza LLC as met all criteria as set forth in Article IV, Section IV, Paragraph E of the Mountrail County Zoning Ordinance and is further contingent upon Dakota Gold Transfer Plaza LLC complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes, motion carried.

Vice Chairman Hynek called the 9:20 a.m. public hearing to order regarding the zoning request filed by Dakota Gold Transfer Plaza LLC, with concurrence from Gary A. & Gordon L. Lien, landowners, for an amendment to the Mountrail County Zoning Map to rezone a 194.86 acre, more or less, tract of land described as Government Lots 3 & 4, S½NW¼ Section 3, Township 152 North, Range 88 West (Plaza Township) from agricultural to industrial to accommodate an oil transfer facility. Present for this discussion was Cody Moe, Dakota Gold Transfer Plaza LLC; Becky Hogan, R&R Engineers; Michelle Rogers, Shane Erickson, Wayne Olson, Gordon Lien, Bob Kok, Brad Blesie, Trailstone Group, Gary Lien, Mark Kok, and Ole Lynne. Staff reported a letter had been received from Quinten Bangen with concerns about having two of these types of facilities in Plaza Township and the staff had received an outlot plat for 1.377 acre, more or less, tract where the Lien's buildings are not to be rezoned to industrial. Cody Moe presented five (5) certified mail return receipt cards from adjacent landowners. Discussion included this is part of the facility previously discussed and use of 41<sup>st</sup> Street NW as the only access to the facility.

Moved by Commissioner Borud, seconded by Commissioner Ruland to present findings of fact from the July 28, 2014 public hearing and make a recommendation to the Mountrail County Commissioner for the approval of the zoning request filed by Dakota Gold Transfer Plaza LLC, with concurrence from Gary A. & Gordon L. Lien, landowners, for an amendment to the Mountrail County Zoning Map to rezone a 194.86 acre, more or less, tract of land described as Government Lots 3 & 4, S½NW¼ less Outlot 2 in Government Lot 4 Section 3, Township 152 North, Range 88 West (Plaza Township) from agricultural to industrial to accommodate an oil transfer facility contingent upon Dakota Gold Transfer Plaza LLC meeting the County standards for the upgrading of the County road as Dakota Gold Transfer Plaza LLC has met all criteria as set forth in Article IV, Section III, Subsection E of the Mountrail County Zoning Ordinance and is

contingent upon Dakota Gold Transfer Plaza LLC complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes motion carried.

Vice Chairman Hynek called the 9:25 a.m. public hearing to order regarding the zoning request filed by Dakota Gold Transfer Plaza LLC, with concurrence from Gary A. & Gordon L. Lien, landowners, for a conditional use permit to use land zoned industrial for oil storage on a 194.86 acre, more or less, tract of land described as Government Lots 3 & 4, S½NW¼ Section 3, Township 152 North, Range 88 West (Plaza Township). Present for this discussion was Cody Moe, Dakota Gold Transfer Plaza LLC; Becky Hogan, R&R Engineers; Michelle Rogers, Shane Erickson, Wayne Olson, Gordon Lien, Bob Kok, Brad Blesie, Trailstone Group, Gary Lien, Mark Kok, and Ole Lynne. Staff reported a letter had been received from Quinten Bangen with concerns about having two of these types of facilities in Plaza Township and the staff had received an outlot plat for 1.377 acre, more or less, tract where the Lien's buildings are not to be rezoned to industrial. Cody Moe presented five (5) certified mail return receipt cards from adjacent landowners.

Moved by Commissioner Borud, seconded by Commissioner Wienbar to approve the conditional use permit filed by Dakota Gold Transfer Plaza LLC, with concurrence from Gary A. & Gordon L. Lien, landowners, to use land zoned industrial for oil storage on a 194.86 acre, more or less, tract of land described as Government Lots 3 & 4, S½NW¼ less Outlot 2 in Government Lot 4 Section 3, Township 152 North, Range 88 West (Plaza Township) contingent upon the approval of the zoning amendment by the Mountrail County Commission as Dakota Gold Transfer Plaza LLC has met all criteria as set forth in Article IV, Section IV, Paragraph E of the Mountrail County Zoning Ordinance and is further contingent upon Dakota Gold Transfer LLC complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes motion carried.

Vice Chairman Hynek called the 9:30 a.m. public hearing to order regarding the zoning request filed by Fritel Construction Inc., with concurrence from Alan & Rosemarie Bieri, landowners, for a conditional use permit to use land zoned agricultural to excavate clay for road repairs on a 121.14 acre, more or less, tract of land described as Government Lots 2 & 3 Section 4, Township 156 North, Range 89 West (McGahan Township). Present for this discussion was Zach Fritel representing Fritel Construction Inc. Staff reported one certified mail receipt had been received from adjacent landowners. Discussion included verification of notification of landowners, materials from this project will be used for projects in McGahan & Redmond Townships, the bonds, and the length of time needed for this conditional use permit.

Moved by Commissioner Borud, seconded by Commissioner Hovda to approve the conditional use permit filed by Fritel Construction Inc., with concurrence from Alan & Rosemarie Bieri, landowners, to use land zoned agricultural to excavate clay for road repairs on a 121.14 acre, more or less, tract of land described as Government Lots 2 & 3 Section 4, Township 156 North, Range 89 West (McGahan Township) for a period of one (1) year contingent upon the receipt of the notifications of adjacent landowners as Fritel Construction has met all criteria as set forth in Article IV, Section IV, Paragraph E of the Mountrail County Zoning Ordinance and is further contingent upon Fritel Construction Inc. complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes motion carried.

Vice Chairman Hynek called the 9:35 a.m. public hearing to order regarding the zoning request filed by Fritel Construction Inc., with concurrence from Michael & Kimberly Bieri, landowners, for a conditional use permit to use land zoned agricultural to excavate clay for road repair, on a 39.25 acre, more or less, tract of land described as Government Lot 1, Section 9, Township 156 North, Range 89 West (McGahan Township). Present for this discussion was Zach Fritel, representing Fritel Construction Inc. Staff reported that Michael Bieri had been in the office and he is authorizing a much smaller area than the full 39.25 acre tract.

Moved by Commissioner Borud, seconded by Commissioner Weisenberger to approve the conditional use permit filed by Fritel Construction Inc., with concurrence from Michael & Kimberly Bieri, landowners, to use land zoned agricultural to excavate clay for road repairs on a 39.25 acre, more or less, tract of land described as Government Lot 1 Section 9, Township 156 North, Range 89 West (McGahan Township) for a period of one (1) year contingent upon the receipt of the notifications of adjacent landowners as Fritel Construction has met all criteria as set forth in Article IV, Section IV, Paragraph E of the Mountrail County Zoning Ordinance and is further contingent upon Fritel Construction Inc. complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes motion carried.

Vice Chairman Hynek called the 9:40 public hearing to order regarding the zoning request filed by Buell Consulting Inc., with concurrence from Dallas & Deborah Moore, landowners, for a variance to use land zoned commercial to place a 230' communications tower which exceeds the 45' maximum height allowed in a commercial district in Mountrail County on a 10,000 square foot tract of land located in the NW $\frac{1}{4}$  Section 24, Township 156 North, Range 89 West (McGahan Township). Present for this discussion was James Ries representing Buell Consulting Inc. who presented seven (7) certified mail return receipt cards from adjacent landowners. Staff reported this property is in a commercially zoned area which allows for communications but this tower would exceed the 45' maximum height allowed in a commercial area.

Moved by Commissioner Hovda, seconded by Commissioner Borud to approve the variance filed by Buell Consulting Inc., with concurrence from Dallas & Deborah Moore, landowners, to use land zoned commercial to place a 230' communications tower, which exceeds the 45' maximum height allowed in a commercial district in Mountrail County, on a 10,000 square foot tract of land located in the NW $\frac{1}{4}$  Section 24, Township 156 North, Range 89 West (McGahan Township) as Buell Consulting Inc. has met the criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is contingent upon Buell Consulting Inc. complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes motion carried.

Moved by Commissioner Borud, seconded by Commissioner Ruland to approve the minutes of the June 23, 2014 meeting as presented. Upon roll call vote all present voted yes motion carried.

Vice Chairman Hynek called the 9:45 a.m. public hearing to order regarding the zoning request filed by Buell Consulting Inc., with concurrence from Darrell & Sylvia Fladeland, landowners, for a conditional use permit to use land zoned agricultural to place a 250' communications tower on a 10,000 square foot tract of land located in the Outlot 2 of the SE $\frac{1}{4}$ , Section 24, Township 156 North, Range 93 West (Manitou Township). Staff reported four (4) certified mail return receipt cards from adjacent landowners had been

received. Present for this discussion was James Ries representing Buell Consulting Inc. Discussion included the proper land description for the location of this tower, self-supporting tower, design of the tower is to collapse upon itself, and distance from 90<sup>th</sup> Avenue NW.

Moved by Commissioner Borud, seconded by Commissioner Ruland to approve the conditional use permit request filed by Buell Consulting Inc., with concurrence from Darrell & Sylvia Fladeland, landowners, for a conditional use permit to use land zoned agricultural to place a 250' communications tower on a 10,000 square foot tract of land located in Outlot 2 of the SE $\frac{1}{4}$  Section 24, Township 156 North, Range 93 West (Manitou Township) as Buell Consulting Inc. has met all criteria as set forth in Article IV, Section IV, Paragraph E of the Mountrail County Zoning Ordinance and is contingent upon Buell Consulting Inc. complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes motion carried.

Vice Chairman Hynek called the 9:50a.m. public hearing to order regarding the zoning request filed by Buell Consulting Inc., with concurrence from Darrell & Sylvia Fladeland, landowners, for a variance to use land zoned agricultural to place a 250' communications tower, which exceeds the maximum allowable height in Mountrail County, on a 10,000 square foot tract of land located in the Outlot 2 of the SE $\frac{1}{4}$ , Section 24, Township 156 North, Range 93 West (Manitou Township). Staff reported four (4) certified mail return receipt cards from adjacent landowners had been received. Present for this discussion was James Ries representing Buell Consulting Inc. Discussion included the proper land description for the location of the tower.

Moved by Commissioner Borud, seconded by Commissioner Ruland to approve the variance request filed by Buell Consulting Inc., with concurrence from Darrell & Sylvia Fladeland, landowners, to use land zoned agricultural to place a 250' communications tower on a 10,000 square foot tract of land located in Outlot 2 of the SE $\frac{1}{4}$  Section 24, Township 156 North, Range 93 West (Manitou Township) as Buell Consulting Inc. has met all criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is contingent upon Buell Consulting Inc. complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes motion carried

Vice Chairman Hynek called the 9:55 a.m. public hearing to order regarding the zoning request filed by Robert Western for a variance to draw slough water from a 160 acre, more or less, tract of land described as the SE $\frac{1}{4}$  Section 36, Township 158 North, Range 92 West (Powers Township). Staff reported they had talked to Mr. Western and there was an error on the water permit and that is why one was not with the application. Present for this discussion was Robert Western.

Moved by Commissioner Ruland, seconded by Commissioner Hovda to table action on the zoning request filed by Robert Western for a variance to draw slough water from a 160 acre, more or less, tract of land described as the SE $\frac{1}{4}$  Section 36, Township 158 North, Range 92 West (Powers Township) until August 25, 2014 to allow time for the proper temporary water permit to be issued. Upon roll call vote all present voted yes motion carried.



Moved by Commissioner Weisenberger, seconded by Commissioner Borud to approve building permits #1764 through 1784 with the land description on 1778 corrected from Twp. 165N to Twp. 156N. Upon roll call vote all present voted yes motion carried.

Vice Chairman Hynek called the 10:00 a.m. public hearing to order regarding the zoning request filed by Buell Consulting Inc., with concurrence from David & Richard Debertin Life Estate to Kyle Debertin, Tanja Olson, Tamara Wintermute, landowners, for a conditional use permit to use land zoned agricultural to locate a 199' communications tower on a 147.59 acre, more or less, tract of land described as NE $\frac{1}{4}$  Section 20, Township 152 North, Range 90 West (Parshall Township), Present for this discussion was Randy Clark representing Buell Consulting Inc.. Mr. Clark presented six (6) certified mail return receipt cards and one certified mail receipt from adjacent landowners. Discussion included size of the site on the property and self-supporting tower.

Moved by Commissioner Borud, seconded by Commissioner Hovda to approve the conditional use permit filed by Buell Consulting Inc., with concurrence from David & Richard Debertin Life Estate to Kyle Debertin, Tanja Olson, Tamara Wintermute, landowners, for a conditional use permit to use land zoned agricultural to locate a 199' communications tower on a 147.59 acre, more or less, tract of land described as NE $\frac{1}{4}$  Section 20, Township 152 North, Range 90 West (Parshall Township) as Buell Consulting Inc. has met the criteria as set forth in Article IV, Section IV, Paragraph E of the Mountrail County Zoning Ordinance and is contingent upon Buell Consulting Inc. complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes motion carried.

Vice Chairman Hynek called the 10:05 a.m. public hearing to order regarding the zoning request filed by Buell Consulting Inc., with concurrence from David & Richard Debertin Life Estate to Kyle Debertin, Tanja Olson, Tamara Wintermute, landowners, for a variance to use land zoned agricultural to locate a 199' communications tower which exceeds the 90' maximum height allowable in Mountrail County on a 147.59 acre, more or less, tract of land described as NE $\frac{1}{4}$  Section 20, Township 152 North, Range 90 West (Parshall Township). Present for this discussion was Randy Clark representing Buell Consulting Inc.. Mr. Clark had six (6) certified mail return receipt cards and one certified mail receipt from adjacent landowners.

Moved by Commissioner Weisenberger, seconded by Commissioner Hovda to approve the variance request filed by Buell Consulting Inc., with concurrence from David & Richard Debertin Life Estate to Kyle Debertin, Tanja Olson, Tamara Wintermute, landowners, use land zoned agricultural to locate a 199' communications tower which exceeds the 90' maximum height allowable in Mountrail County on a 147.59 acre, more or less, tract of land described as NE $\frac{1}{4}$  Section 20, Township 152 North, Range 90 West (Parshall Township). Upon roll call vote all present voted yes motion carried.

Vice Chairman Hynek called the 10:10 a.m. public hearing to order regarding the zoning request filed by Buell Consulting Inc., with concurrence from Spencer O. & Joyce Estvold Life Estate to Michael Estvold, landowners, for a conditional use permit to use land zoned agricultural to locate a 169' communications tower on a 142.84 acre, more or less, tract of land described as the SW $\frac{1}{4}$  less parcel #13800, less ROW Section 29, Township 152 North, Range 89 West (Model Township). Present for this discussion was

Randy Clark representing Buell Consulting Inc. Mr. Clark presented three (3) certified mail return receipt cards from adjacent landowners.

Moved by Commissioner Borud, seconded by Commissioner Ruland to approve the conditional use permit filed by Buell Consulting Inc., with concurrence from Spencer O. & Joyce Estvold Life Estate to Michael Estvold, landowners, to use land zoned agricultural to locate a 169' communications tower on a 142.84 acre, more or less, tract of land described as the SW $\frac{1}{4}$  less parcel #13800, less ROW Section 29, Township 152 North, Range 89 West (Model Township) as Buell Consulting Inc. has met the criteria as set forth in Article IV, Section IV, Paragraph E of the Mountrail County Zoning Ordinance and is contingent upon Buell Consulting Inc. complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes motion carried.

Vice Chairman Hynek called the 10:15 a.m. public hearing to order regarding the zoning request filed by Buell Consulting Inc., with concurrence from Spencer O. & Joyce Estvold Life Estate to Michael Estvold, landowners for a variance to use land zoned agricultural to place a 169' communications tower which exceeds the 90' maximum height allowable in Mountrail County on a 142.84 acre, more or less, tract of land described as SW $\frac{1}{4}$  less parcel #13800, less ROW Section 29, Township 152 North, Range 89 West (Model Township). Present for this discussion was Randy Clark representing Buell Consulting Inc. Mr. Clark presented three (3) certified mail return receipt cards from adjacent landowners. Discussion included the reason for the location of these towers and whether they would increase band width.

Moved by Commissioner Weisenberger, seconded by Commissioner Hovda to approve the variance filed by Buell Consulting Inc., with concurrence from Spencer O. & Joyce Estvold Life Estate to Michael Estvold, landowners to use land zoned agricultural to place a 169' communications tower which exceeds the 90' maximum height allowable in Mountrail County on a 142.84 acre, more or less, tract of land described as SW $\frac{1}{4}$  less parcel #13800, less ROW Section 29, Township 152 North, Range 89 West (Model Township) as Buell Consulting Inc. has met the criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is contingent upon Buell Consulting Inc. complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes motion carried.

Vice Chairman Hynek called the 10:20 a.m. public hearing to order regarding the zoning request filed by Mountrail Williams Electric Cooperative Inc., with concurrence from Lance L. & Gail R. Bottleson, landowners, for a conditional use permit to use land zoned agricultural to construct an electrical distribution substation on a 5.74 acre, more or less, tract of land, described as Outlot 1 of the SE $\frac{1}{4}$ SE $\frac{1}{4}$  Section 22, Township 151 North, Range 93 West (Big Bend Township). Present for this discussion was Chris Brostuen representing Mountrail Williams Electric Cooperative Inc. Mr. Brostuen presented five (5) certified mail return receipt cards from adjacent landowners. Discussion included access off paved road, will be working with Mountrail County Road & Bridge Department on approach permits and the Marathon lease road.

Moved by Commissioner Borud, seconded by Commissioner Ruland to approve the conditional use permit filed by Mountrail Williams Electric Cooperative Inc., with concurrence from Lance L. & Gail R. Bottleson, landowners, to use land zoned agricultural to construct an electrical distribution substation on a 5.74 acre, more or less, tract of land, described as Outlot 1 of the SE $\frac{1}{4}$ SE $\frac{1}{4}$  Section 22, Township 151 North, Range

93 West (Big Bend Township) as Mountrail Williams Electric Cooperative Inc. has met the criteria as set forth in Article IV, Section IV, Paragraph E of the Mountrail County Zoning Ordinance and is contingent upon Mountrail Williams Electric Cooperative Inc. complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes motion carried.

Vice Chairman Hynek called the 10:25 a.m. public hearing to order regarding the zoning request filed by Hess Bakken Investments II, with concurrence from Michael S. & Laurine A. Hynek, landowners, for a conditional use permit to use land zoned agricultural to place a 260' guyed communications tower on a 6 acre, more or less, tract of land located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$  Section 2, Township 154 North, Range 93 West (Rat Lake Township). Present for this discussion was Alan Mayo representing Hess Bakken Investments II. Mr. Mayo presented four (4) certified mail return receipt cards from the adjacent landowners. Discussion included this is a very active area for Hess and this will be used to monitor the current wells and future wells in this area.

Moved by Commissioner Hovda, seconded by Commissioner Weisenberger to approve the conditional use permit filed by Hess Bakken Investments II, with concurrence from Michael S. & Laurine A. Hynek, landowners, to use land zoned agricultural to place a 260' guyed communications tower on a 6 acre, more or less, tract of land located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$  Section 2, Township 154 North, Range 93 West (Rat Lake Township) as Hess Bakken Investments II have met the criteria as set forth in Article IV, Section IV, Paragraph E of the Mountrail County Zoning Ordinance and is contingent upon Hess Bakken Investments II complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes motion carried.

Vice Chairman Hynek called the 10:30 a.m. public hearing to order regarding the zoning request filed by Hess Bakken Investments II, with concurrence from Michael S. & Laurine A. Hynek, landowners, for a variance to use land zoned agricultural to place a 260' guyed communications tower which exceeds the 90' maximum height allowable in Mountrail County, on a 6 acre, more or less, tract of land located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$  Section 2, Township 154 North, Range 93 West (Rat Lake Township). Present for this discussion was Alan Mayo representing Hess Bakken Investments II. Mr. Mayo had presented four (4) certified mail return receipt cards from the adjacent landowners.

Moved by Commissioner Borud, seconded by Commissioner Ruland to approve the variance filed by Hess Bakken Investments II, with concurrence from Michael S. & Laurine A. Hynek, landowners, to use land zoned agricultural to place a 260' guyed communications tower which exceeds the 90' maximum height allowable in Mountrail County, on a 6 acre, more or less, tract of land located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$  Section 2, Township 154 North, Range 93 West (Rat Lake Township) as Hess Bakken Investments II have met the criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is contingent upon Hess Bakken Investments II complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call vote all present voted yes motion carried.

Vice Chairman Hynek called the 10:35 a.m. public hearing to order regarding the zoning request filed by Hess Bakken Investments II, with concurrence from Brian & Nancy Rice and Jerome E. & Ardis Rice, landowners, for a conditional use permit to use land zoned agricultural to place a 260' self-supporting communications tower on a 2 acre, more or less, tract of land located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$  Section 10,

Township 156 North, Range 94 West (Myrtle Township). Present for this discussion was Alan Mayo representing Hess Bakken Investments II. Mr. Mayo presented six (6) certified mail return receipt cards from adjacent landowners. Staff reported a letter, a copy of which was at their places when they arrived, had been received from the North Dakota Game and Fish Department with comments regarding the location of this tower. Discussion included the location was selected at Mr. Rice's request, may need to move the tower to the east with Mr. Rice's permission, FAA permitting, unlicensed with FCC anticipating FCC licensing next year, and adjacent landowners if tower is moved.

Moved by Commissioner Borud, seconded by Commissioner Hovda to table the zoning request filed by Hess Bakken Investments II, with concurrence from Brian & Nancy Rice and Jerome E. & Ardis Rice, landowners, for a conditional use permit to use land zoned agricultural to place a 260' self-supporting communications tower on a 2 acre, more or less, tract of land located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$  Section 10, Township 156 North, Range 94 West (Myrtle Township) until next month when the exact location of the tower will be identified. Upon roll call vote all present voted yes motion carried.

Vice Chairman Hynek called the 10:40 a.m. public hearing to order regarding the zoning request filed by Hess Bakken Investments II, with concurrence from Brian & Nancy Rice and Jerome E. & Ardis Rice, landowners, for a variance to use land zoned agricultural to place a 260' self-supporting communications tower which exceeds the 90' maximum height allowable in Mountrail County on a 2 acre, more or less, tract of land located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$  Section 10, Township 156 North, Range 94 West (Myrtle Township). Present for this discussion was Alan Mayo representing Hess Bakken Investments II who presented six (6) certified mail return receipt cards from adjacent landowners.

Moved by Commissioner Borud, seconded by Commissioner Ruland to table the zoning request filed by Hess Bakken Investments II, with concurrence from Brian & Nancy Rice and Jerome E. & Ardis Rice, landowners, for a variance to use land zoned agricultural to place a 260' self-supporting communications tower which exceeds the 90' maximum height allowable in Mountrail County on a 2 acre, more or less, tract of land located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$  Section 10, Township 156 North, Range 94 West (Myrtle Township) until next month when the exact location of the tower will be identified. Upon roll call vote all present voted yes motion carried.

Vice Chairman Hynek called the 10:45 a.m. public hearing to order regarding the zoning request filed by Reservoir Sillicates LC, with concurrence from Roger A. & Bonnie Lynne, landowners, for an amendment to the Mountrail County Zoning Map to rezone a 148.8 acre, more or less, tract of land described as the NE $\frac{1}{4}$  less Outlot 1 of the NW $\frac{1}{4}$ NE $\frac{1}{4}$  & railroad right of way in Section 14, Township 152 North, Range 88 West (Plaza Township) from agricultural to industrial to allow for the construction and operation of a multi-modal industrial rail park for the transport of crude oil, fracking sand, drill pipe and other materials related to the oil and gas industry. Present for this discussion was Patrick Reismour, PE representing Reservoir Sillicates LC, Ole Lynne, Bette Wold, Joel Wold, Michelle Rogers, Wayne Olson, Bob Kok, Tim Gray, and Mark Kok representing Great Northern Ag. Mr. Reismour presented nine (9) certified mail return receipt cards from adjacent landowners. Staff reported a handout titled Makoti ND Transload Facility was located at their place and received after the packets were assembled and there are larger architectural renderings of the proposed site. Discussion included reducing truck traffic in other parts of the State, widening & improving of 61<sup>st</sup> Avenue NW, realigning CP rail track so it does not cross ND Highway 23 twice, relocation of

residences is under consideration, have met with members of the Three Affiliated Tribes, development of North, West, South Yards, handling of agricultural products, storage of cars on site, effect on Plaza Elevator, main emphasis is fracking sand since Reservoir Sillicates owns frack sand mines, who is Reservoir Sillicates LC, stand-alone company not a subsidiary, financial resources adequate to meet the demands of this type of project, crude oil will be brought in by truck, anticipate using the crossing on ND Highway 23 twice a day, truck traffic on the County road, initially 100 trucks ultimately 400 trucks per day, no additional rail crossings, no temporary housing, 7,000 foot siding, history of Reservoir Sillicates LC, traffic turning off Highway 23 needs turning lanes, ability of ND Highway 23 to accommodate the traffic being proposed will be a struggle, noise, water quality if one of these facilities has a leak, safety of children, shallow water wells in the area, safety of creek in the area, difficulty of getting on to ND Highway 23, increased dangers to students traveling to and from school, conversations with local landowners, secondary containment for all oil storage areas, monitoring wells in the area, testing of water sources in the area, radius of area in which to test wells, visit directly with Reservoir Sillicates LC, and change of scenery and life style in the area as a result of the oil and gas industry.

Moved by Commissioner Borud, seconded by Commissioner Weisenberger to table the zoning request filed by Reservoir Sillicates LC, with concurrence from Roger A. & Bonnie Lynne, landowners, for an amendment to the Mountrail County Zoning Map to rezone a 148.8 acre, more or less, tract of land described as the NE $\frac{1}{4}$  less Outlot 1 of the NW $\frac{1}{4}$ NE $\frac{1}{4}$  & railroad right of way in Section 14, Township 152 North, Range 88 West (Plaza Township) from agricultural to industrial to allow for the construction and operation of a multi-modal industrial rail park for the transport of crude oil, fracking sand, drill pipe and other materials related to the oil and gas industry until next month's meeting to allow time for Reservoir Sillicates LC to provide additional information regarding their project. Upon roll call vote all present voted yes motion carried.

Moved by Commissioner Weisenberger, seconded by Commissioner Ruland to table the zoning request filed by Reservoir Sillicates, with concurrence from Roger A. & Bonnie Lynne, landowners for a conditional use permit to use land zoned industrial to allow for the construction & operation of a multi-modal industrial rail park for transport of crude oil, fracking sand, drill pipe & other materials related to the oil & gas industry on a 148.8 acre, more or less, tract of land described as the NE $\frac{1}{4}$  less Outlot 1 of the NW $\frac{1}{4}$ NE $\frac{1}{4}$  & railroad right of way Section 14, Township 152 North, Range 88 West (Plaza Township); and the zoning request filed by Reservoir Sillicates LC, with concurrence from Roger A. & Bonnie Lynne, landowners, for a variance to allow for structures to exceed 90' the maximum allowed in Mountrail County in an industrial zoned area where there will be construction & operation of multi-modal industrial rail park for transport of crude oil, fracking sand, drill pipe & other materials related to the oil & gas industry on a 148.8 acre, more or less, tract of land described as the NE $\frac{1}{4}$  less Outlot 1 of the NW $\frac{1}{4}$ NE $\frac{1}{4}$  & railroad right of way in Section 14, Township 152 North, Range 88 West (Plaza Township); and the zoning request filed by Reservoir Sillicates LC, with concurrence from Robert & Nita J. Kok, landowners, for an amendment to the Mountrail County Zoning Map to rezone a 160 acre, more or less, tract of land described as the NW $\frac{1}{4}$  Section 13, Township 152 North, Range 88 West (Plaza Township) from agricultural to industrial to allow for the construction & operation of a multi-modal industrial rail park for the transport of crude oil, fracking sand, drill pipe & other materials related to the oil & gas industry; and the zoning request filed by Reservoir Sillicates LC, with concurrence from Robert & Nita J. Kok, landowners, for a conditional use permit to use land zoned industrial to allow for the construction & operation of a multi-modal industrial rail park for transport of crude oil, fracking sand, drill pipe & other materials related to the oil & gas industry on a 160

acre, more or less, tract of land described as the NW<sup>1</sup>/<sub>4</sub> Section 13, Township 152 North, Range 88 West (Plaza Township); and the zoning request filed by Reservoir Sillicates LC, with concurrence from Robert & Nita J. Kok, landowners, for a variance to allow for structures to exceed the 90' maximum height allowable in Mountrail County in an industrial zoned area where there will be construction & operation of a multi-modal industrial rail park for transport of crude oil, fracking sand, drill pipe & other materials related to the oil & gas industry on a 160 acre, more or less, tract of land described as the NW<sup>1</sup>/<sub>4</sub> Section 13, Township 152 North, Range 88 West (Plaza Township) until next month's meeting to allow Reservoir Sillicates LC to provide additional information regarding their project. Upon roll call vote all present voted yes motion carried.

Vice Chairman Hynek called the 11:15 a.m. public hearing to order regarding the subdivision review application filed by Evonne Piepkorn for a 19.84 acre, more or less, plat to be known as Outlot 2 of the S<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub> & N<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub> Section 2, Township 155 North, Range 92 West (Alger Township). Present for this discussion was Evonne Piepkorn. Staff reported a letter from Sam Grinolds, a copy of which was at the places when they arrived, the receipt of one (1) certified mail return receipt card and two (2) certified mail receipts from adjacent landowners and this plat has been reviewed by the Plat Review Committee and it is recommended for approval. Evonne Piepkorn stated this outlot is breaking out the farmstead from the farmland in case the farmland is sold in the future. Staff was directed to send a letter to Sam Grinolds explaining this was a plat review only and is not a zoning amendment.

Moved by Commissioner Weisenberger, seconded by Commissioner Hovda to approve the 19.84 acre, more or less, plat to be known as Outlot 2 of the S<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub> & N<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub> Section 2, Township 155 North, Range 92 West (Alger Township) as Evonne Piepkorn has met all of the requirements of the Mountrail County Land Subdivision Resolution. Upon roll call vote all present voted yes motion carried.

Continuation of the zoning request originally filed November 25, 2013 by Green Group Holdings LLC dba Black Mallard Disposal, with concurrence from Mary Ann Wing, Rose Benson, Joe, Fred & Rae Omar and Zachary Omar, landowners, for a conditional use permit to use land zoned industrial for the operation of a special oil field waste landfill on a 240 acre, more or less, tract of land described as SW<sup>1</sup>/<sub>4</sub>, W<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub> Section 5, Township 155 North, Range 92 West (Alger Township). Present for this discussion was Levi D. Andrist, Vogel Law Firm; Shane Goettle, Odney; Bill Hodges & Oscar Allen, representing Green Group Holdings LLC; Roger Sorenson, and Evonne Piepkorn. Staff reported this conditional use permit application was received prior to the moratorium and the development of the new rules for special oil field waste sites. Discussion included County Commission had approved the amendment for this property in February subject to the conditional use permit developed by the Planning & Zoning Board, 89<sup>th</sup> Avenue NW is the identified access road, improve 89<sup>th</sup> Avenue NW to 60<sup>th</sup> Street NW, emergency entrance/exit on 59<sup>th</sup> Street NW, improve 59<sup>th</sup> Street NW to 88<sup>th</sup> Avenue NW for emergency purposes, traffic from the South may use 60<sup>th</sup> Street NW to access 89<sup>th</sup> Avenue NW, suitability of the soil in the area, additional soil samples used to reconfigure the pit location based on geology, this is the beginning of a very technical phase called the hard design, economically viable at the reduced size, have had conversations with landowners for easements along 89<sup>th</sup> Avenue NW, traffic coming down 90<sup>th</sup> Avenue NW, addressing Mr. Olson's concerns, controlling of weeds, less than desirable site, drainage and water problems of this site, roads should not be a determining factor in choosing a location, not a good site, high veins of underground water, delicate area, approval of the pre-application does not guarantee an application will be approved, significantly

more borings than required in the pre-application stage, ground water will follow topography, mix of geological materials in the area, number of monitoring wells, design of storm water retention ponds, storm water management, unacceptable geology would result in the State not approving the final application, depth of the pit, height of cap when facility is closed, little bit of water in the borings on the south side of the property, what happens if a vein of water is found, inconsistency of soils, storm water runoff after the facility is capped, inter-locking concrete blocks rather than rip rap, number of years of maintenance and monitoring the facility after the site is closed, minimum of 30 years of maintenance & monitoring by federal requirement, lining of holding ponds, contact water, approval of this type of facility in a delicate area, concerns for future of the land, reviewed site selection, adjustment of footprint as a result of geology, opportunity to work with the State on a full application, issues the State Health Department may find to stop the application process, currently at 16% of completing State Health Department application process, without conditional use permit the State Health Department application process cannot proceed and this is the last opportunity for Mountrail County Planning & Zoning to deal with this project.

Moved by Commissioner Borud, seconded by Commissioner Ruland to approve the conditional use permit request filed by Green Group Holdings LLC dba Black Mallard Disposal, with concurrence from Mary Ann Wing, Rose Benson, Joe, Fred & Rae Omar and Zachary Omar, landowners, to use land zoned industrial for the operations of a special waste landfill on a 240 acre, more or less, tract of land described as SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$  Section 5, Township 155 North, Range 92 West (Alger Township) contingent upon:

1. Composite/synthetic liners, leachate detection systems, and leachate removal systems must be compatible with waste disposed and the waste's leachate.
2. Leachate removal and management systems must be capable of collection and removing leachate and contaminated surface water.
3. Synthetic liners and leachate removal systems must withstand all physical and chemical stresses during the operating period and through the post-closure period.
4. The synthetic liners and leachate removal systems must have a collection efficiency of ninety-seven percent (97%) or better of precipitation falling on the fill area before closure and must be capable of removing leachate to limit the hydraulic head above the upper liner, exclusive of collection sumps, to twelve (12) inches [30.5 centimeters] or less within thirty-six (36) hours of a precipitation event.
5. A composite liner is required which includes at a minimum from bottom to top:
  - a. At least three (3) feet [91.4 centimeters] of re-compacted clay with a hydraulic conductivity not to exceed  $1 \times 10^{-7}$  centimeters per second;
  - b. A synthetic flexible membrane liner at least sixty (60) mils thick;
  - c. A secondary drainage layer with a hydraulic conductivity of  $1 \times 10^{-3}$  centimeters per second or greater throughout and with sufficient thickness to provide a transmissivity of  $3 \times 10^{-2}$  centimeters squared per second or greater;
  - d. A synthetic flexible membrane liner at least eighty (80) mils thick;
  - e. A drainage layer with a hydraulic conductivity of  $1 \times 10^{-3}$  centimeters per second or greater and with sufficient thickness to provide a transmissivity of  $3 \times 10^{-2}$  centimeters squared per second or greater;
  - f. No composite liner may be exposed to freezing more than one winter season. At least three (3) feet of waste or other material approved by the ND Department of Health must be placed above the upper drainage layer on all lined areas by December 1<sup>st</sup>. No disposal may take place after December 1<sup>st</sup> in areas which have not met this requirement without first testing the composite liner's integrity.
6. The facility must include a leachate detection and removal system and an onsite leachate management system or offsite leachate management.

- a. The amount of leachate collected for onsite or offsite management must be measured and recorded;
  - b. The quality of the leachate must be evaluated annually;
  - c. Construction of onsite surface impoundments for leachate storage to achieve the equivalent or better design standards of the onsite landfill.
7. Runoff must be contained, collected, and transferred to an onsite surface impoundment.
  8. Waste disposed in landfills must be limited to oil field cuttings and oil related spill materials with oil related spill materials limited to twenty-five thousand (25,000) tons per year. Regulated infectious waste, used oil as a free liquid, which can be recovered or recycled, hazardous waste, and radioactive waste above regulatory limits may not be accepted for disposal at the landfill.
  9. All wastes deposited at the landfill must be placed, spread or compacted to minimize or prevent settlement and to promote drainage of surface water. The sequence and direction of below-grade operations must be conducted to prevent surface water from entering the active fill area.
  10. On all areas of the landfill where final cover or additional waste will not be placed within ninety (90) days, eight (8) inches [20.3 centimeters] or more of compacted clay-rich soil material, similar material, or a synthetic cover must be placed to prevent ponding of surface water, to minimize infiltration of surface water and to control windblown dust.
  11. The owner or operator must place intermittent cover on all exposed waste.
    - a. Unless specified otherwise in the operation plan, the waste must not be left uncovered for more than ninety (90) days. Cover must be provided by additional waste or with a suitable material proposed by the landfill owner.
    - b. The cover materials used and cover depth must be sufficient to cover the waste completely.
  12. The final cover at closure must include from bottom to top:
    - a. A barrier layer consisting of at least twenty-four (24) inches [61.0 centimeters] of compacted earthen materials with a hydraulic conductivity no greater than  $1 \times 10^{-7}$  centimeters per second;
    - b. A synthetic flexible membrane liner which is at least sixty (60) mils thick;
    - c. A drainage layer consisting of at least six (6) inches [15.2 centimeters] with a transmissivity of  $3 \times 10^{-2}$  centimeters squared per second or greater; or an equivalent drainage geocomposite;
    - d. A layer which is at least thirty-six (36) inches [91.4 centimeters] thick to protect the synthetic liner, drainage layer and barrier layer from freezing, the upper twelve (12) inches [30.5 centimeters] of this layer must be suitable as a plant root zone; and
    - e. A top layer at least six (6) inches [15.2 centimeters] thick consisting of suitable plant growth material.
  13. The actual size of the landfill waste footprint is limited to a maximum of 70 acres.
  14. The landfill footprint and leachate ponds are to be set-back two thousand six hundred forty (2,640) feet from any occupied residence.
  15. Landfill designed to insure all run-off from trucks delivering materials is managed within the landfill site.
  16. Installation of stationary screening system to include but not limited to radiation monitoring and visual site inspections.
  17. All materials that are disposed at the landfill site must be limited to those wastes identified under condition number eight (8) of this conditional use permit and the North Dakota Department of Health permit issued for this landfill site. Further, all waste must be below all radioactivity levels established by the North Dakota Department of Health as specified either in the North Dakota Century Code or the North Dakota Administrative Code.
  18. A landscaping plan will be prepared and submitted to the Planning Commission for approval prior to the start of actual construction on the landfill site, which shall include a visual and audio buffer on the exterior of the property.
  19. There must be a four (4) strand barbed wire fence around the entire exterior boundary of the landfill and a controlled access gate or gates which must be secured.



20. To the extent a project utilized County/Township roads, the applicant must have impact/road use agreements in place with all of the affected political subdivisions.
  21. The applicant must pay by July 31<sup>st</sup> of each year to Mountrail County for the Mountrail County Landfill Site Inspector's salary, benefits and operating expenses associated with such duties. The amount of the assessment shall be set annually by the Board of Mountrail County Commissioners, and be for the purpose of providing the necessary funds to reimburse Mountrail County for the Site Inspector's salary, benefits and operating expenses associated with such duties.
  22. Bi-annual waste sampling around the landfill's waste footprint for Resource Conservation & Recovery Act (RCRA) metals, volatile organic compounds (VOC's) and radiation.
  23. Semi-annual ground water sampling from a minimum of six (6) monitoring wells.
  24. A Ten Million Dollar (\$10,000,000) insurance policy with pollution coverage listing Mountrail County as an additional insured party. This policy shall be in place during the operation of the site and for thirty (30) years post-closure.
  25. Terms and conditions of this conditional use permit goes with the land and cannot be separated through sale to other parties.
- Upon roll call vote Commissioners Borud, Hynek, Lindberg and Ruland voted yes, Commissioners Hovda, Weisenberger and Wienbar vote no, motion carried.

Due to the retirement of Michael Hynek as Chairman and the upcoming retirement of Vice Chairman David J. Hynek it will be necessary to elect new officers to fulfill the terms until the January reorganizational meeting. Moved by Commissioner Borud, seconded by Commissioner Weisenberger to nominate Roger Hovda as Chairman, cease nominations and cast a unanimous ballot for Roger Hovda. Upon roll call vote Commissioners Borud, Hynek, Lindberg, Ruland, Weisenberger and Wienbar voted yes, Commissioner Hovda voted no. Motion carried.

Moved by Commissioner Hovda, seconded by Commissioner Wienbar to nominate Arlo Borud as Vice Chairman, cease nominations and cast a unanimous ballot for Arlo Borud. Upon roll call vote all present voted yes. Motion carried.

The letter from Taryn Lumley regarding his request for a joint meeting with the City of Stanley Planning & Zoning Board was discussed. Attorney Enget gave a background of the reason for Mr. Lumley's request. Discussion included need of West/North truck by-pass; development affecting the City of Stanley, Idaho Township and the County; volume of trucks using the South/West by-pass; bottle neck of traffic; and need for joint meeting. Moved by Commissioner Borud, seconded by Commissioner Hovda to invite Taryn Lumley, the City of Stanley Planning & Zoning Board, the Idaho Township Board of Supervisors and Larson Engineering to the August 25<sup>th</sup> meeting to discuss the future development of the West/North by-pass. Upon roll call vote all present voted yes, motion carried.

Judith Kleven has been hired as the administrative assistant for Planning & Zoning and will begin work on Friday, August 1<sup>st</sup>.

Board concerns included having the guy wires of cell towers included in the area designated for the cell tower, appropriate drawings for cell towers, and minimum font size on drawings.

Having no further business Vice Chairman Hynek adjourned the meeting.

The next regular meeting of the Mountrail County Planning & Zoning Board is to be held on Monday, August 25, 2014 at 8:30 a.m. at the Mountrail County South Complex, 8103 61<sup>st</sup> Street NW, Stanley, ND.

Accepted and approved this 25<sup>th</sup> day of August, 2014

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Roger Hovda, Chairman  
Mountrail County Planning & Zoning Commission

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Donald W. Longmuir Jr., AICP  
Zoning Administrator