

MINUTES

Mountrail County Planning & Zoning Commission September 24, 2018

Mountrail County South Complex 8103 61st St NW Stanley, ND 58784

Chairman Sorenson called the meeting to order at 8:35 a.m.

In Attendance

Board members present: Charlie Sorenson, Roger Hovda, Bill Klug and Joan Hollekim. Trudy Ruland attended by phone.

Also present were Nate Sem, Planning & Zoning Administrator, Lori Hanson, Mountrail County Tax Director, Jana Hennessy, Road & Bridge Engineer, Wade Enget, Mountrail County States Attorney, Heather Greenlee, Mountrail County Deputy Auditor and Liz Hollowell, Planning & Zoning Administrative Assistant.

Public attending were Dale Patten, Mike Childs with Bakken Water Transfer LLC, Jeff King, Jami Chandler with Select Energy Services, Gary Nordloef, Roger Cymbaluk with Basin Brokers, Marvin Hegstad, Larry Fritel, Karen Fritel, and Sam Fritel

Absent were Gary Weisenberger, Arlo Borud, Linda Wienbar, Thomas Bieri and Teresa Captain, Mountrail County Deputy Tax Director.

Approval of Agenda

Chairman Sorenson requested a motion to review and approve the meeting agenda.

Commissioner Hollekim moved to accept the agenda as is. Commissioner Hovda seconded. Upon roll call, all present voted yes. Motion carried.

8:30 Public Hearing

Variance Permit Dale Patten /
Robert & Lavonne Patten

Applicant/Landowner: Dale Patten / Robert and Lavonne Patten, landowners

Location: 160 acre tract of land described as the SW¼ of Section 36, Township 154 North, Range 91 West (**Sikes Township**).

Number of certified mailing receipts provided: 3

North Dakota Temporary Permit: ND2018-18801

Purpose: Pump water for fracking

Present: Dale Patten

Discussion: Mr. Patten stated they would be using flat hose. Commissioner Hovda asked if Mr. Patten had a buyer for his water. Mr. Patten stated they have something in the works. Commissioner Hovda reminded Mr. Patten that whoever he sells his water to, must work with Mountrail County regarding hose placement. Mr. Patten stated he would.

Outcome: Approved with contingencies.

Motion: Moved by Commissioner Hovda, seconded by Commissioner Klug to approve the zoning request filed by Dale Patten with concurrence from Robert and Lavonne Patten, landowners, for a variance to pump water from an unnamed pond under *ND State Temp Water Permit ND2018 – 18801* for fracking on a 160 acre tract of land described as the SW¼ of Section 36, Township 154 North, Range 91 West (**Sikes Township**) contingent upon the terms and conditions of the ND State Temporary Water Permit ND2018-18801 valid August 13, 2018 through August 12, 2019, only using flat hose, landowners being contacted regarding hose placement, and adhering to Mountrail County Road & Bridge temporary ROW Use requirements when applicable as Dale Patten has met all criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is further contingent on Dale Patten complying with all other terms and conditions of the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes. Motion carried.

8:33 Public Hearing

Variance Permit

Select Energy Ser. /
Jeffrey Ranch Trust

Applicant/Landowner: Select Energy Services / Jeffrey Ranch Trust, landowner

Location: 40 acre tract of land described as the NW¼SW¼ of Section 22, Township 155 North, Range 94 West (**Unorganized Township**).

Number of certified mailing receipts provided: 1

North Dakota Temporary Permit: ND2018-18849

Purpose: Pump water for fracking

Present: Jamie Chandler with Select Energy Services

Discussion: Ms. Chandler stated they would be using flat hose and no trucks. Commissioner Hovda stated the application is for 40 acres and the ND State temp water permit is for 160, but since that 40 acres is inside the 160 acres that should be ok. Commissioner Hollekim asked if the trust paperwork had been received. It was determined that Planning & Zoning has a copy from previous applications.

Outcome: **Approved with contingencies.**

Motion: Moved by Commissioner Hollekim, seconded by Commissioner Ruland to approve the zoning request filed by Select Energy Services with concurrence from The Jeffrey Ranch Trust, landowner, for a variance to pump water under *ND State Temp Water Permit ND2018 – 18849* from the White Earth River for fracking on a 40 acre tract of land described as the NW¼SW¼ of Section 22, Township 155 North, Range 94 West (**Unorganized Township**) contingent upon the terms and conditions of the ND State Temporary Water Permit ND2018-18849 valid July 24, 2018 through July 23, 2019 only using flat hose, landowners being contacted regarding hose placement, and adhering to Mountrail County Road & Bridge temporary ROW Use requirements when applicable as Select Energy Services has met all criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is further contingent on Select Energy Services complying with all other terms and conditions of the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes. Motion carried.

8:36 Public Hearing

Variance Permit

Bakken Water
Transfer Ser. / John D Moen

Applicant/Landowner: Bakken Water Transfer Services Inc. / John D Moen, landowner

Location: 160 acre, more or less, tract of land described as the SW¼ of Section 17 Township 158 North, Range 92 West (**Powers Township**)

Number of certified mailing receipts provided: 4

North Dakota Temporary Permit: ND2018-19006

Purpose: Pump water for fracking

Present: Mike Childs with Bakken Water Transfer Service Inc.

Discussion: Mr. Childs stated he would be using flat hose and no trucks but doesn't have a project at this time. Commissioner Hovda asked the depth of Powers Lake. Nate Sem, Planning & Zoning Administrator stated the lake does not vary much. Commissioner Hollekim asked if this would affect the cleaning of the lake. Planning & Zoning Administrator Sem stated probably not. Commissioner Hollekim stated the correct legal description for this parcel is Gov't Lot 1, 2, & 3 of the SW¼.

Outcome: Approved with contingencies.

Motion: Moved by Commissioner Hovda, seconded by Commissioner Klug to approve the zoning request filed by Bakken Water Transfer Services Inc. in concurrence with John D Moen, landowner, for a variance permit to pump water from Powers Lake under *ND State Temp Water Permit ND2018 – 19006* for fracking on a 83.93 acre, more or less, tract of land described as Gov't lot 1, 2, & 3 in the SW¼ of Section 17 Township 158 North, Range 92 West (**Powers Township**) contingent upon the terms and conditions of the ND State Temporary Water Permit ND2018-19006 valid September 10, 2018 through September 9, 2019, only using flat hose, landowners being contacted regarding hose placement, and adhering to Mountrail County Road & Bridge temporary ROW Use requirements when applicable as Bakken Water Transfer Services Inc. has met all criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is further contingent on Bakken Water Transfer Services Inc. complying with all other terms and conditions of the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes. Motion carried.

8:39 Public Hearing

Variance Permit

Bakken Water
Transfer Ser. / Claude Sem

Applicant/Landowner: Bakken Water Transfer Services Inc. / Claude and Patricia Sem, landowners

Location: 160 acre tract of land described as the NE¼ of Section 7, Township 158 North, Range 92 West (**Powers Township**).

Number of certified mailing receipts provided: 4

North Dakota Temporary Permit: ND2018-18942

Purpose: Pump water for fracking

Present: Mike Childs with Bakken Water Transfer Service Inc.

Discussion: Mr. Childs stated he would be using flat hose and no trucks. Commissioner Hollekim stated the correct legal description for this parcel is Gov't Lot 1 & 4 of the NE¼.

Outcome: **Approved with contingencies.**

Motion: Moved by Commissioner Hollekim, seconded by Commissioner Hovda to approve the zoning request filed by Bakken Water Transfer Service Inc. with concurrence from Claude and Patricia Sem, landowners, for a variance to pump lake water under *ND State Temp Water Permit ND2018 – 18942* for fracking on a 47.7 acre tract of land described as Gov't lots 1 and 4 in the NE¼ of Section 7, Township 158 North, Range 92 West (**Powers Township**) contingent upon the terms and conditions of the ND State Temporary Water Permit ND2018-18942 valid August 25, 2018 through August 24, 2019, only using flat hose, landowners being contacted regarding hose placement, and adhering to Mountrail County Road & Bridge temporary ROW Use requirements when applicable as Bakken Water Transfer Service Inc. has met all criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is further contingent on Bakken Water Transfer Service Inc. complying with all other terms and conditions of the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes. Motion carried.

Marvin Hegstad stated his concerns about the flat line hoses laying across his road. He stated once they are full and under pressure, it can be difficult to get over them and that could hinder the fuel truck or an ambulance reaching them. Mr. Hegstad stated he was told a culvert would be put in for that hose, but that didn't happen. Mr. Hegstad showed on the map where his house and road were in relation to the point of diversion for this water permit. Commissioner Hovda asked if anyone had contacted Mr. Hegstad for permission to lay the hose on his land. Mr. Hegstad stated no. Chairman Sorenson stated Nate Sem, Planning & Zoning Administrator lives in the area and will be keeping an eye on the activity there.

8:42 Public Hearing

Outlot Plat Review

Gary Nordloef/

Sandra & Denver Howell

Applicant/Landowner: Gary Nordloef / Sandra and Denver Howell, landowners

Location: 62.41 acre, more or less, plat to be known as Outlot 3 of the SE¼ of Section 15, Township 157 North, Range 91 West (**James Hill Township**).

Number of certified mailing receipts provided: 3

Purpose: Sale of outlot.

Present: Gary Nordloef and Roger Cymbaluk with Basin Brokers

Discussion: Mr. Cymbaluk stated the Howell's were selling their farm and since Mr. Nordloef has been using the parcel for a while, he has decided to purchase the outlot. This outlot will stay agricultural. Mr. Cymbaluk stated once this plat is approved by the P&Z Board, he will get all the landowner signatures including the people listed on the life estate.

Outcome: **Approved**

Motion: Moved by Commissioner Hollekim, seconded by Commissioner Hovda to approve the outlot review request filed Gary Nordloef with concurrence from Sandra and Denver Howell, landowners, for a 62.41 acre, more or less, plat to be known as Outlot 3 of the SE¼ of Section 15, Township 157 North, Range 91 West (**James Hill Township**) contingent on all landowners signing the plat as Gary Nordloef has met all the criteria as set forth in the *Mountrail County Subdivision Resolution* and is further contingent upon Gary Nordloef complying with all other regulations as set forth in the Mountrail County Zoning Ordinances. Upon roll call, all present voted yes. Motion carried.

The final plat was given to Mr. Nordloef and Mr. Cymbaluk with instructions to have all landowners sign and then return the original signed plat to Planning & Zoning.

8:45 Public Hearing *Conditional Use Permit* Sam Fritel
/Mountrail County Park Board

Applicant/Landowner: Sam Fritel/ Mountrail County Park Board

Location: 17 acre, more or less, tract of land described as Gov't Lot 6 of Section 22, Township 157 North, Range 90 West (**Clearwater Township**).

Number of certified mailing receipts provided: 3

Purpose: Park development by removing the clay hill to create safer parking.

Present: Sam Fritel, Larry & Karen Fritel, and Jeff King

Discussion: Mr. Sam Fritel stated he was removing the clay hill in the southwest part of the parcel so that location could be used as a safe parking area. Chairman Sorenson asked who had the idea for Mr. Fritel to do this project. Mr. Fritel stated the idea was the Fritel's. Commissioner Hovda asked if this would be pickup parking or something else. Mr. Larry Fritel stated now the hill is unusable but once

leveled off, it could be used for pickup, with boat trailer, parking. Sam Fritel requested that any money made off the sale of the clay be returned just to Clear Lake for what they may need for the park. Mrs. Karen Fritel added Clear Lake really needs more parking for boat trailers. Right now due to lack of parking, some boat owners leave their pickup and boat trailer on the ramp. Mrs. Fritel stated they have to go out on lake to find them to get them to move their vehicle. They do not want parking by the trees as that is where the campground is and children go from the campground to the water. That would be an accident waiting to happen. Commissioner Hollekim asked about the zoning of the parcel. Wade Enget, Mountrail County States Attorney stated the zoning was not changed. Commissioner Hollekim stated the Fritel's have put a lot of work into that park without receiving much personal benefit and they have done a very nice job. Jana Hennessy, Road & Bridge Engineer stated additional parking is needed badly. Commissioner Hovda stated if the Park Board is in favor, then so is he.

Jeff King with Clearwater Township stated Clearwater Township would like to have a little more time to consider this request as it is customary for the Clearwater Township Board to all agree on any project before they approve it. This project would require a road haul agreement as 68th Street NW is a 5 ton road. Mr. King stated they are interested in the reclamation plan of the location and concerned about run off going across the road or into the lake. Mr. Fritel asked if the permit could be approved pending a road haul agreement from Clearwater Township. Mr. King stated he would agree to make the permit contingent on the road haul agreement and the road haul agreement would be Clearwater Township's approval. Wade Enget, Mountrail County States Attorney stated this application could be put on the October's meeting agenda as a staff item and if Mr. Fritel gets the required road haul agreement before then, this application would be removed from the agenda. Chairman Sorenson ask the length of time needed. Commissioner Hollekim asked if the road haul agreement was just temporary. Sam Fritel stated a road haul agreement is only needed for 68th and he would only be traveling west from the parks approach, either coming or going. Lori Hanson, Mountrail County Tax Director asked if the clay was going to be mined all at once or just when ordered. Mr. Fritel stated just when ordered. Karen Fritel stated the park is normally the busiest between Memorial Day and Labor Day, so this project would be done during the off season.

Outcome: Approved with contingencies.

Motion: Moved by Commissioner Hovda, seconded by Commissioner Klug to approve the zoning request filed by Sam Fritel in concurrence with Mountrail County Park Board, landowner, for a conditional use permit to use land zoned agricultural to mine clay to create a useable space for additional parking on a 17 acre, more or less, tract of land described as Gov't Lot 6 of Section 22, Township 157 North, Range 90 West (**Clearwater Township**) until February 24, 2020 contingent upon obtaining and adhering to a road haul agreement with Clearwater Township

in addition to working with Mountrail County Park Board on a reclamation plan to be completed by August 24, 2020 as Sam Fritel has met all criteria as set forth in Article IV, Section IV of the Mountrail County Zoning Ordinance and is further contingent on Sam Fritel complying with all other terms and conditions of the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes. Motion carried.

Approval of Building Permits

| Permit No. | Name/Address of applicant | Legal Description | Sec and Lot | Township | Range | Township Name | building type |
|----------------------|---|--------------------------|-------------|----------|-------|---------------|---------------------|
| 2034 | Kenneth or Angela Krueger PO Box 455 Parshall, ND 58770 701-898-9004 kkrueger898@gmail.com | Sublot A of Outlot 1 NW¼ | 22 | 151 | 90 | Fertile | Zoned: Ag Garage |
| 2035 | Johnny D Kulczyk 5131 100th NW White Earth, ND 58794 701-641-1949 | SE½SE¼ | 17 | 154 | 94 | Unorganized | Zoned: Ag Pole Barn |

Chairman Sorenson stated the owner of building permit (BP) 2035 has pending issues in that location and doesn't think it is wise to issue a permit until the issues are corrected. Commissioner Hovda asked if BP 2035 project could be differentiated between industrial and agricultural. Chairman Sorenson stated he does not question the use of this project. He is concerned about the other violations that have not been taken care of. Wade Enget, Mountrail County States Attorney stated as with all permits or applications, the Board can simply ask them to come before the Board for an explanation anytime there is a questions about use.

Motion: Moved by Commissioner Hovda, seconded by Commissioner Ruland to approve building permit 2034 with no restrictions and table building permit 2035. Upon roll call, all present voted yes. Motion carried.

Approval of Minutes

Motion: Moved by Commissioner Hovda, seconded by Commissioner Ruland to approve the August 27, 2018 minutes as corrected. Upon roll call, all present voted yes. Motion carried

Staff Concerns

Stanley/Blaisdell RV Park findings: Nate Sem, Planning & Zoning Administrator advised the ND Department of Health has been in contact with the Stanley/Blaisdell RV Park. Wade Enget, Mountrail County States Attorney stated he just received the green cards last Wednesday so he and Mr. Sem have just started working on the affidavit. Wade Enget, Mountrail County States Attorney named all the people who will be listed on the enforcement action and as a part of the bond, it will be requested they be prohibited from operating without a license. Mountrail County States Attorney Enget stated he hasn't visited the park directly only seen it as he was driving by.

Sanish Subdivision report: Nate Sem, Planning & Zoning Administrator stated he visited Sanish again and there were several items in the road right away. Planning & Zoning Administrator Sem stated there needs to be some sort of enforcement action. Wade Enget, Mountrail County States Attorney stated this is a right of way violation and those should be handled by Road & Bridge. Wade Enget, Mountrail County States Attorney stated there could be two issues, one zoning, one road & bridge, so two letters might need to be sent. Most of the issues are regarding right of way and encroachment violations, which are handled by Road & Bridge.

Nate Sem, Planning & Zoning Administrator stated Planning & Zoning has a pending building permit for Green Acre's subdivision and he wasn't sure if the road had been approved yet. Jana Hennessy, Road & Bridge Engineer stated she hasn't been there since her first visit in August. Pictures were shown of the condition of the road from the visit. Jana Hennessy, Road & Bridge Engineer outlined what each picture showed. Chairman Sorenson asked if this project could be put on hold. Wade Enget, Mountrail County States Attorney stated we still have the letter of credit. Liz Hollowell, Planning & Zoning Administrative Assistant reminded the Board the Letter of Credit (LOC) expires September 30, 2018. Jana Hennessy, Road & Bridge Engineer stated it will take more than the amount of the LOC to fix the roads. Commissioner Hollekim asked if Jana Hennessy, Road & Bridge Engineer would have time to go back out there to see if any improvement have been done. Jana Hennessy, Road & Bridge Engineer stated she can go out and check the roads again, but does not want to be responsible for any drainage issues. Wade Enget, Mountrail County States Attorney reminded the Board of section 7-3, subsection 1 of Mountrail County's Subdivision Resolution. Mountrail County States Attorney Enget stated if the requirements are not met, then Planning & Zoning and Mountrail County States Attorney would write a letter advising them the LOC must stay in effect until such time the road meets the written standards of Mountrail County.

Mountrail County Temporary Use Permit application (TUP), and checklists. Wade Enget, Mountrail County States Attorney suggested waiting for the full board before making decisions. All were in agreement. Chairman Sorenson stated Road & Bridge permit should have instructions to let the applicant know if they need to complete the permit or not. Discussion was held on how and what to put together to ensure we get information on all hose placement locations.

Board Concerns

None

Next Meeting

Next regular meeting of the Mountrail County Planning & Zoning Board is **Monday October 22, 2018** at 8:30 am at the Mountrail County South Complex, 8103 61st St. NW Stanley, ND 58784.

Meeting adjourned at 10:01 a.m.

Approval

Accepted and approved this 22nd day of October 2018



Charlie Sorenson, Chairman
Mountrail County
Planning & Zoning Commission



Liz Hollowell
Administrative Assistant
Planning & Zoning