

PROCEEDINGS OF THE MOUNTRAIL COUNTY
PLANNING & ZONING COMMISSION

Monday, September 26, 2016

The Mountrail County Planning & Zoning Commission met on Monday, September 26nd 2016 at the Mountrail County South Complex with the following voting members present: Roger Hovda, Charlie Sorenson, Arlo Borud, Bill Klug, Trudy Ruland, Gary Weisenberger, and Linda Wienbar. Absent were Chase Lindberg and Thomas Bieri. Also present were Lori Hanson, Mountrail County Tax Director, Teresa Captain, Mountrail County Deputy Tax Director, Wade Enget, Mountrail County States Attorney, Heather Greenlee, Mountrail County Auditor's Office, Don Longmuir, Planning & Zoning Administrator, Lisa Lee, Assistant Planning & Zoning Administrator and Liz Hollowell, Planning & Zoning Administrative Assistant.

Chairman Hovda called the Planning and Zoning meeting to order at 8:30 a.m.

Chairman Hovda requested a motion to review and approve the current meeting agenda. Moved by Commissioner Wienbar, seconded by Commissioner Klug to approve the agenda as is. Upon roll call, all present voted yes, motion carried.

Chairman Hovda called the 8:33 a.m. public hearing to order regarding the zoning request filed by Jerry and Shirley Pennington, landowners, for an amendment to change land zoned agricultural to industrial on a 3.89 acre, more or less, tract of land described as Outlot 3 in the NW $\frac{1}{4}$ of Section 26, Township 152 North, Range 93 West (**Unorganized Township**). One certified mail receipt has been received with no other comments on the project.

Present for this hearing was Jerry Pennington. Mr. Pennington stated he is zoning the property industrial so he can park trucks and a blade on it.

Moved by Commissioner Wienbar, seconded by Commissioner Weisenberger to present finding of fact from the September 26, 2016 public hearing and make a recommendation to the Mountrail County Commissioners for approval of the zoning request filed by Jerry and Shirley Pennington, landowners, for an amendment to change land zoned agricultural to industrial for truck parking on a 3.89 acre, more or less, tract of land described as Outlot 3 in the NW $\frac{1}{4}$ of Section 26, Township 152 North, Range 93 West (**Unorganized Township**) as Jerry and Shirley Pennington have met all criteria as set forth in Article IV, Section III, of the Mountrail County Zoning Ordinance and is further contingent upon Jerry and Shirley Pennington complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes, Motion carried.

Heather Greenlee, Mountrail County Auditor's Office, gave Jerry Pennington a copy of the amendment public notice that assigned a meeting time and date for the Mountrail County Commissioners to hear Mr. Pennington's zoning request.

Moved by Commissioner Weisenberger, seconded by Commissioner Ruland to approve the minutes from the August 22nd 2016 Planning and Zoning Meeting as presented. Upon roll call, all present voted yes, Motion carried.

Moved by Commissioner Ruland, seconded by Commissioner Klug to approve the building permits # 1956 - 1958. Upon roll call, all present voted yes. Motion carried.

Chairman Hovda called the 8:36 a.m. public hearing to order regarding a zoning request filed by Locken Oilfield Service, landowners, for an amendment to change land zoned agricultural to industrial on an 11.09 acre, more or less, tract of land described as an Outlot in the S $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 3, Township 153 North, Range 91 West (**Crane Creek Township**).

Present for this hearing were Casey Locken and Jessie Locken. Lisa Lee Assistant Planning & Zoning Administrator asked Casey Locken about the required certified mailing receipts. Mr. Locken stated they personally spoke with the adjoining landowners and had them sign the landowner list. Jessie Locken is on the Township board so no mailing was sent to him. Don Longmuir, Planning & Zoning Administrator asked Wade Enget, Mountrail County States Attorney if this type of notification was acceptable. Chairman Hovda mentioned this question has come up before. States Attorney Enget stated that it is written in the Mountrail County Ordinances that the notifications must be mailed with a return receipt. States Attorney Enget stated normally the signatures would need to be notarized however if the Planning and Zoning staff could verify the signatures, that would work for this. The difference between commercial and industrial zoning was explained. Commissioner Sorenson stated to be industrial the property needs to be adjacent to a highway per the Mountrail County Ordinances. Commissioner Sorenson reminded the Board of other applications that were denied due to the distance from a highway and stated Mountrail County could be at risk if approves the Locken Oilfield Service's application as is but didn't approve the others. Commissioner Sorenson stated Locken Oilfield Service could zone the Outlot industrial if they connect it to another industrial property or connect the Outlot to a highway. States Attorney Enget reiterated Commissioner Sorenson statement. Chairman Hovda asked if 47th Street was a township road. Casey Locken stated it was. Lisa Lee Assistant Planning & Zoning Administrator asked how far their homes were from the shop as there is a buffer zone required between industrial and residential zone. It was determined there is no issue. Lori Hanson, Mountrail County Tax Director asked about if it's only Special Waste Landfills that can be off the highway or are there other things. Commissioner Sorenson stated there are items, such as a compressor station that have to be on the pipeline, that

do not have to be by a highway. Commissioner Sorenson stated this request is one that can and should be connected to a highway. Chairman Hovda asked if there was a building there now. Casey Locken stated there was. Different options were discussed on how Locken Oilfield Services could connect Outlot 1 to Highway 8. Commissioner Sorenson advised that application would need to come before this one. Wade Enget, Mountrail County States Attorney encouraged Locken Oilfield Services to work with Planning and Zoning.

Moved by Commissioner Sorenson, seconded by Commissioner Weisenberger to table the request filed by request Locken Oilfield Service, landowners, for an amendment to change land zoned agricultural to industrial on an 11.09 acre, more or less, tract of land described as an Outlot in the S $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 3, Township 153 North, Range 91 West (**Crane Creek Township**) to give Locken Oilfield Services time to work with Planning and Zoning to connect the property to Highway 8. Upon roll call, all present voted yes, Motion carried.

The final plat of Outlot 1 was signed by Chairman Hovda and given to Casey Locken, landowner with instructions to take the original plat to the Mountrail County courthouse to be recorded as this would need to be done to pursue the zoning change.

Chairman Hovda called the 8:39 a.m. public hearing to order regarding a zoning request filed by Sundre Sand & Gravel with concurrence from Grady Uran, landowner, 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 the S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 11, Township 154 North, Range 93 West (**Rat Lake Township**). Six certified mail receipts have been received with no other comments on the project.

Present for this hearing was Dave Able and Todd Mants of Sundre Sand & Gravel. Mr. Mants confirmed the pit is right off Highway 1804, so no road haul agreement is needed. This application is a renewal of an existing gravel pit. It was discussed that the letter of credit must be renewed yearly for the life of the permit. Wade Enget, Mountrail County States Attorney reminded Sundre Sand & Gravel if the letter of credit is not renewed yearly, the permit will be void. The letter of credit renewal must be sent to Planning and Zoning.

Moved by Commissioner Borud, seconded by Commissioner Ruland to approve the zoning request filed by Sundre Sand & Gravel with concurrence from Grady Uran, landowner, 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 the S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 11, Township 154 North, Range 93 West (**Rat Lake Township**) for a five year term, requiring a \$125,000.00 letter of credit to be renewed and filed with the Planning & Zoning office annually as Sundre Sand & Gravel has met all the criteria as set forth in Article IV, Section IV in the Mountrail County Zoning Ordinance and is further contingent upon Sundre Sand &

Gravel complying with all other regulations as set forth in the Mountrail County Zoning Ordinances. Upon roll call, all present voted yes. Motion carried.

Chairman Hovda called the 8:42 a.m. public hearing to order regarding a zoning request filed by Sundre Sand & Gravel with concurrence from Grady Uran, landowner, for a conditional use permit to use land zoned agricultural for stockpiling gravel on a 80 acre, more or less, tract of land described as the N½NW¼ of Section 14, Township 154 North, Range 93 West (**Rat Lake Township**) Four certified mail receipts have been received with no other written comments. Don Longmuir, Planning & Zoning Administrator advised the Board this application was just for stockpiling and the letter of credit is for reclamation so Sundre Sand & Gravel is asking if they need a letter of credit for this application.

Present for this hearing were Dave Able and Todd Mants of Sundre Sand & Gravel. Mr. Mants stated no mining is done on this section and once they remove the stockpile, Sundre Sand & Gravel will replace the topsoil. Any additional reclamation done to that location would be up to the landowner. Lisa Lee, Assistant Planning & Zoning Administrator asked if other material beside gravel was being stored there. Mr. Mants stated there were some materials left over from a previous project that were left there and Sundre is working on getting it removed. Chairman Hovda asked the timeframe for removing the material. Mr. Able stated about this time next year. Commissioner Ruland stated if the letter of credit is not required on stockpiles now; it may harm the next landowner of a stockpile who doesn't have a pit tied to it. Chairman Hovda asked the amount of material there. Mr. Mants couldn't give an exact amount. Commissioner Klug stated if the landowner didn't want the stockpile there, they would not have to allow it and if it happened without the landowner's knowledge, then the landowner could bring suit. Mr. Mants asked if a letter of credit was needed when the reclamation is done but a stockpile remains. Commissioner Sorenson stated if the landowner signs a release saying the reclamation was done and ok to leave the stockpiles, then no letter of credit would be needed. It was agreed that the letter of credit was to protect the landowner and if the landowner signs off on the location, then there is no need.

Moved by Commissioner Ruland, seconded by Commissioner Klug to approve the zoning request filed by Sundre Sand & Gravel with concurrence from Grady Uran, landowner, for a conditional use permit to use land zoned agricultural for only stockpiling gravel on a 80 acre, more or less, tract of land described as the N½NW¼ of Section 14, Township 154 North, Range 93 West (**Rat Lake Township**) for a five year term, requiring a \$125,000.00 letter of credit to be renewed and filed with the Planning & Zoning office annually until the landowner signs a pit release as Sundre Sand & Gravel has met all the criteria as set forth in Article IV, Section IV in the Mountrail County Zoning Ordinance and is further contingent upon Sundre Sand & Gravel complying with all

other regulations as set forth in the Mountrail County Zoning Ordinances. Upon roll call, all present voted yes. Motion carried.

Chairman Hovda called the 8:45 a.m. public hearing to order regarding a zoning request filed by Sundre Sand & Gravel with concurrence from Mike Hynek, landowner, 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 the S½SE¼ of Section 11, Township 154 North, Range 93 West (**Rat Lake Township**). Five certified mail receipts have been received with no other comments on the project

Present for this hearing was Dave Able and Todd Mants of Sundre Sand & Gravel. Mr. Mants stated this location is just to the East. Commissioner Borud asked if the road, 52nd Street NW, is the one they use to get to the pit. Mr. Mants state it is and 52nd Street NW is a section line that Sundre improved as it was just a prairie trail when Sundre started the pit. Chairman Hovda stated if it's a section line, it's a township road. Mr. Mants stated 52nd is not on the township roster. Chairman Hovda asked if the road was on their townships road list. Commissioner Borud stated is it not a certified road. Mr. Mants stated the 52nd Street NW is a private road. Chairman Hovda and Commissioner Ruland stated not when it's a section line. Section lines are not private roads. Commissioner Ruland asked if Sundre was mining gravel on that section line. Mr. Mants stated no. Chairman Hovda stated since it's a section line, it's a township road and he would like to see township approval of the use. Commissioner Ruland stated if something happened on that road, the township could be held liable. Mr. Mants stated they could get the approval.

Moved by Commissioner Sorenson, seconded by Commissioner Borud to approve the zoning request filed by Sundre Sand & Gravel with concurrence from Mike Hynek, landowner, 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 the S½SE¼ of Section 11, Township 154 North, Range 93 West (**Rat Lake Township**) for a five year term, requiring a \$125,000.00 letter of credit to be renewed and filed with the Planning & Zoning office annually and subject to Rat Lake Township approval for the use of 52nd Street NW as Sundre Sand & Gravel has met all the criteria as set forth in Article IV, Section IV in the Mountrail County Zoning Ordinance and is further contingent upon Sundre Sand & Gravel complying with all other regulations as set forth in the Mountrail County Zoning Ordinances. Upon roll call, all present voted yes. Motion carried.

Chairman Hovda called the 8:48 a.m. public hearing to order regarding a zoning request filed by Sundre Sand & Gravel with concurrence from Mike Hynek, landowner, for a conditional use permit to use land zoned agricultural for stockpiling gravel on a 80 acre, more or less, tract of land described as the N½NE¼ of Section 14, Township 154 North,

Range 93 West (**Rat Lake Township**). Six certified mail receipts have been received with no other comments on the project.

Present for this hearing was Dave Able and Todd Mants of Sundre Sand & Gravel. Commissioner Borud asked if the same section line was used. Mr. Mants stated yes.

Moved by Commissioner Borud, seconded by Commissioner Sorenson to approve the zoning request by Sundre Sand & Gravel with concurrence from Mike Hynek, landowner, for a conditional use permit to use land zoned agricultural for stockpiling gravel on a 80 acre, more or less, tract of land described as the N $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 14, Township 154 North, Range 93 West (**Rat Lake Township**) for a five year term, requiring a \$125,000.00 letter of credit to be renewed and filed with the Planning & Zoning office annually until the landowner signs a pit release and subject to Rat Lake Township approval for the use of 52nd Street NW as Sundre Sand & Gravel has met all the criteria as set forth in Article IV, Section IV in the Mountrail County Zoning Ordinance and is further contingent upon Sundre Sand & Gravel complying with all other regulations as set forth in the Mountrail County Zoning Ordinances. Upon roll call, all present voted yes. Motion carried.

Chairman Hovda called the 8:51 a.m. public hearing to discuss a zoning request filed by Sundre Sand & Gravel with concurrence from Curt & Summer Meyer, landowners, for a conditional use permit to use land zoned agricultural for mining gravel on a 20 acre, more or less, tract of land described as the S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 27, Township 155 North, Range 94 West (**Unorganized Township**). One certified return receipt was received and no other written comments were received.

Present for this hearing were Dave Able and Todd Mants of Sundre Sand & Gravel. Wade Enget, Mountrail County States Attorney verified this pit was in the S $\frac{1}{2}$ SW $\frac{1}{4}$ and north of highway 1804 of Section 27. Chairman Hovda verified Sundre would be using highway 1804 to access the pit. Mr. Mants stated yes. Mr. Mants stated they are reclaiming this pit in the next few weeks and there would only be a stockpile there. Lisa Lee Assistant Planning & Zoning Administrator stated this permit would be for mining and stockpiling as reclaiming is considered part of mining. Sundre has a letter of credit for this pit and requests the permit to be for 5 years.

Moved by Commissioner Wienbar, seconded by Commissioner Klug to approve the zoning request by Sundre Sand & Gravel with concurrence from Curt & Summer Meyer, landowners, for a conditional use permit to use land zoned agricultural for mining and stockpiling gravel on a 20 acre, more or less, tract of land described as the S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 27, Township 155 North, Range 94 West (**Unorganized Township**) for a five year term, requiring a \$125,000.00 letter of credit to be renewed and filed with the Planning & Zoning office annually until the landowner signs a pit release as Sundre Sand & Gravel has met all the criteria as set forth in Article IV, Section IV in the

Mountrail County Zoning Ordinance and is further contingent upon Sundre Sand & Gravel complying with all other regulations as set forth in the Mountrail County Zoning Ordinances. Upon roll call, all present voted yes. Motion carried.

Chairman Hovda called the 8:54 a.m. public hearing to discuss a zoning request filed by Dakota Chemical, with concurrence from Great Western Energy Service LLC, landowners, for an amendment to change land zoned agricultural to industrial on a 60 acre, more or less, tract of land described as Outlot 1 in Gov't lots 1 & 2 in the S½NE¼ Section 1, Township 152 North, Range 90 West (**Parshall Township**). No certified return receipts had been received and no one from Dakota Chemical was present for the hearing.

Moved by Commissioner Weisenberger, seconded by Commissioner Ruland to table the zoning request filed by Dakota Chemical, with concurrence from Great Western Energy Service LLC, landowners, for an amendment to change land zoned agricultural to industrial on a 60 acre, more or less, tract of land described as Outlot 1 in Gov't lots 1 & 2 in the S½NE¼ Section 1, Township 152 North, Range 90 West (**Parshall Township**) as no one was present for the hearing.

Chairman Hovda called the 8:57 a.m. public hearing to order regarding a zoning request filed by Dakota Energy Resources Corp with concurrence from Carl Kannianen, landowner, for a variance permit to use land zoned agricultural for pumping slough water, *State of ND Permit # - ND2016-17412*, using a flat hose on a 160 acre, more or less, tract of land described as the NE¼ of Section 7, Township 153 North, Range 91West (**Crane Creek Township**). Four certified return receipts were received with no other written comments received.

Present for the discussion was Mike Childs of Dakota Energy Resources Corp. Mr. Childs verified he is pumping water and no trucks were involved.

Moved by Commissioner Borud, seconded by Commissioner Wienbar to approve the zoning request filed by Dakota Energy Resources Corp with concurrence from Carl Kannianen, landowner, for a variance permit to use land zoned agricultural for pumping slough water, *State of ND Permit # - ND2016-17412*, using a flat hose and no trucking on a 160 acre, more or less, tract of land described as the NE¼ of Section 7, Township 153 North, Range 91West (**Crane Creek Township**) as Dakota Energy Resources Corp has met all the criteria as set forth in Article IV, Section V in the Mountrail County Zoning Ordinance and is further contingent upon Dakota Energy Resources Corp complying with all other regulations as set forth in the Mountrail County Zoning Ordinances. Upon roll call, all present voted yes. Motion carried.

Chairman Hovda called the 9:00 a.m. public hearing to order regarding a zoning request filed by Dakota Energy Resources Corp with concurrence from Jerome Anderson,

landowner, for a variance permit to use land zoned agricultural for pumping slough water using a flat hose on a 160 acre, more or less, tract of land described as the SW $\frac{1}{4}$ of Section 15, Township 155 North, Range 92 West (**Alger Township**). Five certified mail receipts have been received and no other comments have been received.

Present for the discussion was Mike Childs. Mr. Childs stated he had not received the ND State temporary water permit yet and was hoping the permit could be contingent on turning in the ND State temporary water permit to Planning and Zoning. Chairman Hovda asked when Mr. Childs applied for the state permit as the application does not have a date showing that. Mr. Childs stated doesn't have that date with him but has been a few months ago. Don Longmuir, Planning & Zoning Administrator stated since the granting of ND state water permits is so unpredictable, it's better to have the applicants wait until they have the permit before they turn in an application. Commissioner Ruland suggested tabling the application until the water permit is received. Mr. Child stated he understood had 120 days to turn in the permit. Lisa Lee, Assistant Planning & Zoning Administrator clarified the 120 day requirement was for after the permit was approved. The permit was not approved yet due to no ND State water permit. Mr. Childs asked if the permit could be contingent on turning in the ND State temporary water permit. Commissioner Ruland stated the variance would not be good if the ND State temporary water permit was not granted. Chairman Hovda stated it was discussed at the last meeting to allow applicants to apply without the ND State Water permit, but no conclusions were arrived at. Mr. Childs asked if his application is tabled now and he gets the ND Water permit tomorrow, does he have to wait for the next Planning & Zoning meeting. Commissioner Ruland stated yes.

Moved by Commissioner Sorenson, seconded by Commissioner Borud to table the zoning request filed by Dakota Energy Resources Corp with concurrence from Jerome Anderson, landowner, for a variance permit to use land zoned agricultural for pumping slough water using a flat hose on a 160 acre, more or less, tract of land described as the SW $\frac{1}{4}$ of Section 15, Township 155 North, Range 92 West (**Alger Township**) due to no ND State water permit. Upon roll call, all present voted yes, Motion carried.

Chairman Hovda called the 9:03 a.m. public hearing to order regarding a zoning request filed by Dakota Energy Resources Corp with concurrence from Jerome Anderson, landowner, for a variance permit to use land zoned agricultural for pumping slough water using a flat hose on a 160 acre, more or less, tract of land described as the NW $\frac{1}{4}$ of Section 15, Township 155 North, Range 92 West (**Alger Township**). Five certified mail receipts have been received and no other comments have been received.

Present for the discussion was Mike Childs. Mr. Childs stated he had not received the ND State temporary water permit yet.

Moved by Commissioner Ruland, seconded by Commissioner Wienbar to table the zoning request filed by Dakota Energy Resources Corp with concurrence from Jerome Anderson, landowner, for a variance permit to use land zoned agricultural for pumping slough water using a flat hose on a 160 acre, more or less, tract of land described as the NW¼ of Section 15, Township 155 North, Range 92 West (**Alger Township**) due to no ND State water permit. Upon roll call, all present voted yes, Motion carried.

Chairman Hovda called the 9:06 a.m. public hearing to order regarding a zoning request filed by Dakota Energy Resources Corp with concurrence from Carl Kannianen, landowner, for a variance permit to use land zoned agricultural for pumping slough water using a flat hose on a 160 acre, more or less, tract of land described as the SW¼SW¼ of Section 7, Township 153 North, Range 91West (**Crane Creek Township**) One certified mail receipt had been received, leaving two more needed with no other comments on the project

Present for the discussion was Mike Childs. Mr. Childs stated he had not received the ND State temporary water permit yet.

Moved by Commissioner Ruland, seconded by Commissioner Arlo to table the zoning request filed by Dakota Energy Resources Corp with concurrence from Carl Kannianen, landowner, for a variance permit to use land zoned agricultural for pumping slough water using a flat hose on a 160 acre, more or less, tract of land described as the SW¼SW¼ of Section 7, Township 153 North, Range 91West (**Crane Creek Township**) due to no ND State water permit and missing certified mail receipts. Upon roll call, all present voted yes, Motion carried.

Chairman Hovda called the 9:09 a.m. public hearing to order regarding a zoning request filed by Bakken Water Transfer Inc. with concurrence from Ronald Aadnes, landowner, for a variance permit to use land zoned agricultural for pumping lake water using a flat hose on a 80 acre, more or less, tract of land described as the SW¼NE¼ of Section 34, Township 157 North, Range 91West (**James Hill Township**). Five certified mail receipts have been received and several written comments against the project. Written comments were received from Curt Hemstad, Brian Hollinger, Paul Dennis, Mary Dennis, Dale Brewster, Deborah Brewster, Larry Crowder, Pauline Crowder, Matt Evans and Sara Evans opposing the project due to air quality issues. Don Longmuir, Planning & Zoning Administrator stated one of the issues with water permit's is the ND State Water Commission doesn't let people know, only the person applying. All the letters that were received from the adjacent landowners were forwarded to ND State Water Commission office.

Present for the discussion was Mike Childs. Mr. Childs stated he had not received the ND State temporary water permit yet.

Also present for the discussion were the following adjacent landowners: Curt Hemstad, Paul Dennis, Louis Kuster, Joel Dennis and Mary Dennis. Each landowner spoke against the project due to concerns of poor air quality caused by blowing alkali and possible effects on drinking wells. Chairman Hovda encouraged the landowners to contact the ND State Water Commissions regarding their concerns. A discussion was held regarding how far the lake would drop if the amount of water the application showed was taken. Commissioner Weisenberger stated White Lake is an alkali lake and not fresh water.

Moved by Commissioner Weisenberger, seconded by Commissioner Sorenson to deny the zoning request filed by Bakken Water Transfer Inc. with concurrence from Ronald Aadnes, landowner, for a variance permit to use land zoned agricultural for pumping lake water using a flat hose on a 80 acre, more or less, tract of land described as the SW¼NE¼ of Section 34, Township 157 North, Range 91West (**James Hill Township**) per Article IV, Section V, paragraph 3 & 4 in the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes, Motion carried.

Chairman Hovda called the 9:12 a.m. public hearing to order regarding a zoning request filed by Bakken Water Transfer Inc. with concurrence from Ronald Aadnes, landowner, for a variance permit to use land zoned agricultural for pumping slough water using a flat hose on a 160 acre, more or less, tract of land described as the NE¼ of Section 36, Township 157 North, Range 91West (**James Hill Township**). Five certified mail receipts have been received with no other written comments received.

Present for the discussion was Mike Childs. Mr. Childs stated he had not received the ND State temporary water permit yet.

Moved by Commissioner Wienbar, seconded by Commissioner Ruland to table the zoning request filed by Bakken Water Transfer Inc. with concurrence from Ronald Aadnes, landowner, for a variance permit to use land zoned agricultural for pumping slough water using a flat hose on a 160 acre, more or less, tract of land described as the NE¼ of Section 36, Township 157 North, Range 91West (**James Hill Township**) as no ND State Water permit was issued. Upon roll call, all present voted yes, Motion carried.

Chairman Hovda called the 9:15 a.m. public hearing to order regarding a zoning request filed by Bakken Water Transfer Inc. with concurrence from Roger A Rogstad, landowner, for a variance permit to use land zoned agricultural for pumping slough water using a flat hose on a 160 acre, more or less, tract of land described as the NW¼ of Section 12, Township 155 North, Range 91West (**Purcell Township**). Five certified mail receipts have been received with one more needed.

Present for the discussion was Mike Childs. Mr. Childs stated he had not received the ND State temporary water permit yet.

Also present for the discussion was Flora Davidson. Mrs. Davidson was concerned about taking water from the slough in section 12 and if it was going to be drained. Chairman Hovda advised this permit is only for a certain amount and would not drain the slough. Mrs. Davidson was also concerned if water is taken, then it would decrease the amount of water available for her pasture. Chairman Hovda suggested Mrs. Davidson should contact the State Water Commission with her concerns. The Board discussed only approving to take the water from the far west slough and not both as the applications indicated.

Moved by Commissioner Borud, seconded by Commissioner Wienbar to table the zoning request filed by Bakken Water Transfer Inc. with concurrence from Roger A Rogstad, landowner, for a variance permit to use land zoned agricultural for pumping slough water using a flat hose on a 160 acre, more or less, tract of land described as the NW¼ of Section 12, Township 155 North, Range 91West (**Purcell Township**) as no ND State Water permit was issued and missing certified mail receipts.

Don Longmuir, Planning & Zoning Administrator gave the history of the Brendle's Subdivision. The land was zoned residential in 1999. The home owners' association covenants of the subdivision give the landowners up to 5 years to build their house but the subdivision has become a campground of sorts, which is not an allowable use of residential land. Wade Enget, Mountrail County States Attorney added RV's in a residential zone is not even a conditional use. Mountrail County States Attorney Enget continued that this type of situation comes up when subdivision are covered by county zoning and home owners association covenants that gives landowner more time to build a residence. From a County Ordinance standpoint, RV's in a residential zone are not allowed and therefore is a violation. Don Longmuir, Planning & Zoning Administrator stated 11 letters were sent to property owners advising them of the violation.

Clay Sorenson, Duane Haugen, Darla & Matt Miller, John Anderson, Wade Tuttle were present to explain their understanding of the HOA covenants and ask for a variance to allow them to remain until their 5 years had expired.

The Board discussed different options for the RV's and that subdivision covenants were a private issue not approved or reviewed by Planning & Zoning. Chairman Hovda stated they will take all information under advisement to come up with a plan according to Mountrail County Ordinances. Wade Enget, Mountrail County States Attorney recommended to give those in violation additional time to come into compliance.

Moved by Commissioner Ruland, seconded by Commissioner Wienbar to extend the deadline for the owners in Brendle Subdivision to remove their RV's from October 31, 2016 to February 28, 2017.

Duane Haugen asked if they would be notified of the next meeting with Planning & Zoning on the decision. Wade Enget, Mountrail County States Attorney stated this issue would be at the next meeting which is October 24, 2016.

Board Concerns: The Board discussed concerns over the Brendle's Subdivision landowners' situation.

Staff Concerns: Don Longmuir, Planning & Zoning Administrator advised an email was received from the City of Palermo stating they had no objections with William Brandt's project and a motion was needed to accept the findings.

Moved by Commissioner Borud, seconded by Commissioner Ruland to accept the email dated September 8, 2016 from the City of Palermo stating the City has no objections to the William Brandt issue. Upon roll call all present voted yes, motion carried.

Chairman Hovda adjourned the meeting.

The next regular meeting of the Mountrail County Planning & Zoning Board is Monday, October 24th 2016 at 8:30 am at the Mountrail County South Complex, 8103 61st St. NW Stanley, ND 58784.

Accepted and approved this 24th day of October 2016.

Roger Hovda, Chairman
Mountrail County
Planning & Zoning Commission

Liz Hollowell
Administrative Assistant
Planning & Zoning