

MINUTES

Mountrail County Planning & Zoning Commission

November 26, 2018

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

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

In Attendance

Board members present: Charlie Sorenson, Gary Weisenberger, Linda Wienbar, Thomas Bieri, Trudy Ruland and Joan Hollekim.

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

Public attending: Edward Danks, Cory Ravnaas, John Anderson, Matt Charbonnet, Hyrum Zitting and Grant Kallberg.

Absent: Arlo Borud, Roger Hovda, and Bill Klug.

Approval of Agenda

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

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

8:30 Public Hearing

Amendment

Edward Danks

Applicant: Edward Danks

Location: a 29.00 acre, more or less, tract of land described as Outlot 12 and Outlot 13 of the SE¼ of Section 13, Township 152 North, Range 92 West (**Osborne Township**).

Number of certified mailing receipts provided: 5

Purpose: To build an office building and a shop to operate a truck repair business.

Present: Edward M Danks and Cory Ravnaas

Discussion: Mr. Danks requested to change the current zoning from agricultural to industrial to build an office building and a truck repair business as well as to get the area cleaned up. Once the parcel has been rezoned, he will come back to Planning & Zoning for a building permit. He is aware that he must be 100 feet from the property line to the east as that is zoned residential. Mr. Danks will be fencing his property for safety reason.

Outcome: Approved to present to the County Commissioners.

Motion: Moved by Commissioner Ruland, seconded by Commissioner Bieri to present findings of fact from the November 26, 2018 public hearing and make a recommendation to the Mountrail County Commissioners for approval of the zoning request filed by Edward Danks, landowner, for an amendment to change land zoned agricultural to industrial for the purpose of building an office building and shop to operate a truck repair business on a 29.00 acre, more or less, tract of land described as Outlot 12 and Outlot 13 of the SE¼ of Section 13, Township 152 North, Range 92 West (**Osborne Township**) contingent on a buffer zone to include trees and a security fence on the east side of his property, for all buildings being 100 feet from all residential zoning boundaries and the outlots 12 and 13 being combined to one as Edward M Danks has met all criteria as set forth in Article IV, Section III, of the Mountrail County Zoning Ordinance and is further contingent upon Edward M Danks complying with all other regulations as set forth in the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes. Motion carried.

Mr. Edwards M Danks was given his public notice by Heather Greenlee, Mountrail County Deputy Auditor for his meeting with the County Commissioners on December 18, 2018 at 10 a.m. to finalize his Amendment application.

8:33 Public Hearing

Variance

**Highline Water
LLC/Gerald Neset**

Applicant: Highline Water, LLC in concurrence with Gerald Neset, landowner

Location: 40 acre, more or less, tract of land described as the SE¼NE¼ of Section 15, Township 155 North, Range 94 West (**Unorganized Township**).

Number of certified mailing receipts provided: 2

Purpose: Pump water from White Earth River for fracking.

Present: Matt Charbonnet

Discussion: Mr. Charbonnet stated Highline Water LLC would be using only flat hoses and while he could not say where the hoses would be laid, he was confident that Mr. Eskew would be in contact with any landowners when necessary. Mr. Charbonnet did show, on the map, where the pump would be placed.

Outcome: **Approved with contingencies.**

Motion: Moved by Commissioner Hollekim, seconded by Commissioner Weisenberger to approve the zoning request filed by Highline Water, LLC in concurrence with Gerald Neset, landowner, for a variance to pump water from White Earth River for fracking on a 40 acre, more or less, tract of land described as the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 15, Township 155 North, Range 94 West (**Unorganized Township**) contingent upon the terms and conditions of the ND State Temporary Water Permit ND2018-19125 valid February 1, 2019 through May 31, 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 Highline Water, LLC has met all criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is further contingent on Highline Water, LLC 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

**Highline Water
LLC/Fred Sorenson**

Applicant: Highline Water, LLC in concurrence with Fred Sorenson, landowner

Location: 160 acre, more or less, tract of land described as the NW $\frac{1}{4}$ of Section 3, Township 154 North, Range 94 West (**Unorganized Township**).

Number of certified mailing receipts provided: 2

Purpose: Pump water from White Earth River for fracking

Present: Matt Charbonnet

Discussion: Mr. Charbonnet stated this was a similar project. Chairman Sorenson stated the State Water Board has contacted him about this permit as they do spot checks and was just touching bases. Chairman Sorenson stated he also received a call from a landowner that stated he would not be in favor of any water being pumped from his property. Jana Hennessy, Mountrail County Road & Bridge

stated since they didn't know where their hoses would be, it's important to know there is not much room there for hoses to be laid in the easements and Highline Water LLC would need to get a Mountrail County Road & Bridge temporary ROW Use Permit. Mr. Charbonnet stated Highline Water LLC would be in contact with Mountrail County Road & Bridge.

Outcome: Approved with contingencies.

Motion: Moved by Commissioner Weisenberger, seconded by Commissioner Hollekim to approve the zoning request filed by Highline Water, LLC in concurrence with Fred Sorenson, landowner, for a variance to pump water from White Earth River for fracking on a 160 acre, more or less, tract of land described as the NW¼ of Section 3, Township 154 North, Range 94 West (**Unorganized Township**) contingent upon the terms and conditions of the ND State Temporary Water Permit ND2018-19126 valid December 1, 2018 through November 30, 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 Highline Water, LLC has met all criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is further contingent on Highline Water, LLC 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

**Dakota Energy
Resources Corp. /Scott Meier**

Applicant: Dakota Energy Resources Corp., with concurrence from Scott Meier, landowner

Location: 160 acre tract of land described as the SW¼ of Section 28, Township 156 North, Range 92 West (**Ross Township**).

Number of certified mailing receipts provided: 2

Purpose: Pump water from an unnamed slough for fracking

Present: John Anderson

Discussion: Mr. Anderson stated they would be using only flat hose and would contact other landowners regarding hose placement if necessary.

Outcome: Approved with contingencies.

Motion: Moved by Commissioner Hollekim, seconded by Commissioner Bieri to approve the zoning request filed by Dakota Energy Resources Corp., with concurrence from Scott & Nancy Meier, landowners, for a variance to pump water from an unnamed slough for fracking on a 160 acre tract of land described as the SW¹/₄ of Section 28, Township 156 North, Range 92 West (**Ross Township**) contingent upon the terms and conditions of the ND State Temporary Water Permit ND2018-19075 valid September 25, 2018 through December 31, 2018, only using flat hose, both landowners signing the permit, all landowners being contacted regarding hose placement, and adhering to Mountrail County Road & Bridge temporary ROW Use requirements when applicable as Dakota Energy Resources Corp. has met all criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is further contingent on Dakota Energy Resources Corp. complying with all other terms and conditions of the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes. Motion carried.

Green Acres Subdivision (Shotcrete Services, LLC) - Jana Hennessy, Road & Bridge Engineer stated she invited Mr. Kallberg to this meeting as he has concerns about the Green Acres Subdivision and how it will and does impact his property. Grant Kallberg, adjacent landowner, discussed how the water flow had changed since the Green Acres Subdivision has started working on the road and now more of it is going to pool in front of his yard. Hyrum Zitting advised the Board of what they have done and are trying to do to solve the water problems. Commissioner Ruland asked since Green Acres is changing the way the water flows, has the Water District been apprised? Mr. Zitting stated he believes the Water District has been contacted. Mr. Kallberg stated the only way he would see this corrected, is the south side of the road needs to be lowered. Chairman Sorenson asked if Mountrail County has received Green Acres updated Letter of Credit. It was confirmed Planning & Zoning had not. Chairman Sorenson stated as of now there is or will be a *Cease and Desist* issued. Chairman Sorenson stated if Green Acres changes the flow of the water, then Green Acres would need to get an easement from Mr. Kallberg to use his land, and it is clear they do not have one. Commissioner Ruland stated Green Acres is changing the way the water flows even if it continues to flow the same direction, filling in a low spot will stop any natural evaporation and encourage flooding. Mr. Kallberg asked about elevations of the property. A discussion was held on elevations and water flow. Commissioner Hollekim asked if any of the lots could be a place for a holding pond to contain the water that naturally flows there. Commissioner Weisenberger asked if a culvert could be put in at the place where the water flows to have it cross there instead of flowing west only to be turned to flow back east. Jana Hennessy, Road & Bridge Engineer stated that might be something they can do with permission from the landowner on the south. More discussion was held on ideas on how to handle the water flow and where a culvert might help. Mr. Zitting stated he let the owners know they need a LOC and they are working on getting it. Mr. Zitting asked what amount the LOC needs to be. The Board stated the LOC does not reduce. Wade Enget, Mountrail County States Attorney stated there are still questions about the development of

the subdivision so the LOC is required for the amount originally established. Mr. Zitting stated he will let the owners know that the LOC is required right away. Wade Enget, Mountrail County States Attorney stated it is important that Green Acres Subdivision works closely with Jana Hennessy, Road & Bridge Engineer, Mountrail County Planning & Zoning and the Mountrail County Water Resources. Chairman Sorenson stated a LOC and hydrology study are required. Mr. Zitting stated he would get those together and be back next meeting. Planning & Zoning will contact Water Resources to follow up on their findings.

Building Permit

Permit No.	Name/Address of applicant	Legal Description	Sec and Lot	TownShip	Range	Township Name	building type
2037	Equinor 14649 Brigham Dr Williston, ND 58801 701-875-3513 krz@equinor.com	ENW Lots 1 & 2	30	156	92	Ross	Zoned: Industrial Office Space

Motion: Moved by Commissioner Weisenberger, seconded by Commissioner Ruland to approve building permit #2037. Upon roll call, all present voted yes. Motion carried

Approval of Minutes

Motion: Moved by Commissioner Weisenberger, seconded by Commissioner Ruland to approve the October 22, 2018 minutes as presented. Upon roll call, all present voted yes. Motion carried

Staff Concerns

- Nate Sem, Mountrail County Planning & Zoning Administrator announced his resignation effective November 28, 2018.
- Central Specialties, Inc. Letter of Credit release – Planning & Zoning reported that Central Specialties stated they would be coming to the meeting to get their LOC released and would send landowner release documents to Planning & Zoning prior to the meeting. Planning & Zoning has not received any

documents. Nate Sem, Mountrail County Planning & Zoning Administrator stated he visited the site and there are still items there. It was decided the LOC would remain in effect.

- Mountrail County Temporary Use Permit application (TUP), and checklists – Each board member had a copy of the P&Z permit and the R&B permit. Wade Enget, Mountrail County States Attorney explained why the R&B permit is eleven pages. A discussion was held on “temporary drive over” put on township roads and the problems they can cause. Both instances were approved by the townships. The Board agreed this practice needs to be discouraged. It was determined the word “over” would be removed from the R&B permit. Jana Hennessy, Road & Bridge Engineer stated she is taking the pictures of these “temporary drive over’s” to the township meeting to discourage townships from approving them and letting the townships know they can be liable for any damage or accidents caused by a “temporary drive over”. Commissioner Ruland stated what’s most important is the safety of our citizens. Commissioner Hollekim stated # 9 of the R&B permit needs to be rewritten to be clear that temporary uses, in most cases, will not allowed over the road. The Board suggested that the R&B permit should be used by the townships. Jana Hennessy, Road & Bridge Engineer stated she encourages the townships to use the R&B permit at every opportunity, but the R&B permit can be time consuming to maintain. Chairman Sorenson stated the P&Z permit should have a place to designate when county or township roads are used. Commissioner Ruland stated a requirement needs to be added to keep the inline pumps away from residences. Commissioner Hollekim asked if the new ordinance had been approved. Chairman Sorenson stated it had not and this could be something we could add to it. Wade Enget, Mountrail County States Attorney stated a setback is already established and gave example of such. Chairman Sorenson stated the permit numbers should match the R&B permit numbers. A discussion was held on the best way to number the P&Z permits. Wade Enget, Mountrail County States Attorney stated if an applicant can’t tell us where their hose will go, then they will have to wait for approval until they do. These suggested changes will be added to the permits and brought back to the Board for another look.

Board Concerns

Commissioner Ruland asked about Sanish and if anything had been decided. Sanish is zoned agricultural but clearly is being used as residential, so it should be rezoned. Wade Enget, Mountrail County States Attorney stated once Mountrail County’s Comprehensive Plan is ready to have public hearings and we can ask the County Commissioners to rezone Sanish to actual use as provided by the Tax

Department. The residents in Sanish will receive notices and invitations to a meeting before any zoning would be changed.

Commissioner Hollekim thanked Nate Sem, Mountrail County Planning & Zoning Administrator for his service. Commissioner Hollekim asked if anyone from Planning & Zoning will be involved in the hiring process. It was determined someone would be.

Commissioner Wienbar asked about the zoning on a parcel on Highway 2 that has lot of weeds and looks very unsightly. It was determined weed control is not part of Planning & Zoning requirements.

Commissioner Wienbar asked about Stanley Blaisdell RV. Wade Enget, Mountrail County States Attorney explained the steps taken.

Wade Enget, Mountrail County States Attorney informed the Board that Mr. Scott Lawson had contacted him regarding the affidavit he received for living in a camper in a residential district at Brendle's Subdivision. Mr. Lawson would like to settle. Wade Enget, Mountrail County States Attorney explained the affidavit details and what Mr. Lawson would have to do.

Next Meeting

Next regular meeting of the Mountrail County Planning & Zoning Board is **Thursday December 27, 2018** at 8:30 am at the Mountrail County South Complex, 8103 61st St. NW Stanley, ND 58784.

Meeting adjourned at 10:05 a.m.

Approval

Accepted and approved this 27th day of December 2018

Charlie Sorenson, Chairman
Mountrail County
Planning & Zoning Commission

Liz Hollowell
Administrative Assistant
Planning & Zoning