

MERCER COUNTY PLANNING COMMISSION MINUTES

The Mercer County Planning Commission met Wednesday, September 9th, 2026 at the Beulah Civic Center in Beulah, Eslinger called the meeting to order at 7:00 p.m. C.T.

Members Present: Mike Eslinger, Chris Renner (Entered at 7:02pm), Casey Voigt, Kevin Hafner, Shane Cole, Andy Thomas, Steve Guenther (Commissioner Alternate)

Members Absent: Tiana Kelly, Rick Bauman, Gerald Bieber

Others Present: Aaron Hummert, Dale & Lisa Dauenhauer, Tom Weigel (Moore Engineering), Lori Hammer, Lucinda Johnson, Linette & Kevin Irwin, Wes Klein, Zane & Kara Woroniecki, Elizabeth Lundstrom, Dan Arens, Myles & Sharon Dittus, Tom Krank, Michael Berg, Amanda Myers-Sorensen, Sandy Myers

Eslinger asked for any additions or corrections to tonight's agenda. Land Use Admin would like to add Nov. 11th meeting date, as it's a holiday. Discussion on dates. Board decided on Nov. 18th. Eslinger would like to move case 26-09-04 to second on the agenda, to do non-farm applications first. Motion by Cole, seconded by Voigt, to approve agenda as amended, all members present voted "aye", motion passed. Board acknowledged new board member Tiana Kelly, City of Stanton representative. Motion by Guenther, seconded by Hafner, to approve the minutes of August 11th, 2026. All members present voted "aye", motion passed.

New Business

Zoning Case #26-09-01

This public hearing is being held for the purpose of considering an application from Zane & Kara Woroniecki for approval of a Conditional Use for a Non-Farm Residence within the Agricultural Zone of the Mercer County Zoning District Map. The subject parcel is located approximately 20 miles south and 3 miles west of Zap. The subject parcel is 16.10 acres in size and is described as Parcel A in the NW4 of NE4 located in Section 28 T141N R89W of the Fifth Principle Meridian, Mercer County, North Dakota. Zane & Kara are present for questions. Placing modular home on existing farmstead. Utilities are already present. The existing older farm house will be getting removed. Thomas questioned the 150' setback. Woroniecki said that is doable. Motion by Voigt to approve, seconded by Cole, all members present voted "aye", motion carried.

Zoning Case #26-09-04

This public hearing is being held for the purpose of considering an application from Amanda Myers for approval of a Conditional Use for a Non-Farm Residence within the Agricultural Zone of the Mercer County Zoning District Map. The subject parcel is located approximately 15 miles north and 2 miles east of Beulah. The subject parcel is 8.27 acres in size and is described as Parcel 1 located in N2 Section 2 T146N R87W of the Fifth Principle Meridian, Mercer County, North Dakota. Amanda is present for questions. There is a shop already present. She is moving her mobile home out there. The land is owned by her mother but she does have a notarized signed letter from her mother. Motion by Voigt to approve, seconded by Cole, all other members present voted "aye", motion carried.

Zoning Case #26-09-02

This public hearing is being held for the purpose of considering an application from Lisa Dauenhauer for approval of a variance in lot sizes for Weidner Bay mobile home court to convert existing park to be individual plotted lots. This variance request is to allow lot sizes to be under 80,000 sq ft that is required in the R-4 Residential District. The subject parcel is located approximately 13 miles north & 2 miles west of Beulah and is described as N2SW4, Section 18, T146N, R87W of the Fifth Principle Meridian, Mercer County, North Dakota. Aaron Hummert (Hummert Land Surveying) & Lisa Dauenhauer are present for questions. Went over Moore Engineering's recommendations. Voigt stated this is existing development and they have been renting the lots for years. Eslinger stated since 1961. Weigel stated his recommendations are based off the ordinance and the typical right of ways we like to see in subdivisions. Voigt stated that whatever wouldn't work on the prelim plat, variances or waivers would need to be completed since the people have been living there. Eslinger stated each development is different and look at each case individually. Eslinger stated one concern is with someone's well, being on the neighbor's lot, so an easement will need to be signed to prevent future problems and wondered if there are more cases like this. Hummert stated he did resurvey the area since the last meeting and the provided map is a much more refined map. There will be superficial changes to accommodate the landowners. They mapped out, to what makes the most sense as far as buildings, decks, yard irrigation and before this gets finalized pins will need to be set. After pins are set they would like to give a period of time to the landowners for any comments. Utility easements are already recorded. On prelim plat stage they will do a one call locate and map as best they can. Dale Dauenhauer has good knowledge on the location of the wells. Hummert referred back to the variance and the non-conformity issue. Hafner asked if the lakeside boundaries are delineated by the Core. Hummert stated in this case no. They do not have authority in this area. A storm shelter will be dedicated and is already existing. Eslinger questioned the road and it being seasonal now. Once they own the land do they foresee more people living out there year around and would the road need to be built up. Lisa thought she still sees it as being seasonal and could address it in the covenants. May become an HOA situation and needs to be thought about it. Eslinger stated school buses could be going in and out of there some day. Thomas would like some kind of owner notification of what is happening, with it being a contingency upon approval. Hummert would like to see the variance approved and the notification would come with the prelim plat. Motion by Renner to approve, seconded by Cole, all members present voted "aye", motion carried.

Kevin Hafner recused himself for the next two cases.

Zoning Case #26-09-03A

This public hearing is being held for the purpose of considering an application from Hafner Place, LLC to rezone a parcel of land from Agricultural District to Residential District (R-1) of the Mercer County Zoning District Map. The subject parcel is located approximately 15 miles north of Beulah. The subject parcel is 4.77 acres in size and is described as part of the NE4 of Section 5 T146N R87W of the Fifth Principle Meridian, Mercer County, North Dakota. Motion by Renner to approve, seconded by Cole, all members present voted "aye", motion carried. Kevin Hafner is present for questions. Hafner stated they are adding another section to their existing subdivision. It will be the 3rd subdivision. Eslinger asked if this is south of the existing lots and all utilities are present. Hafner replied, yes. Motion by Voigt to approve, seconded by Renner, all members present voted "aye", motion carried.

Zoning Case #26-09-03B

This public hearing is being held for the purpose of considering an application from Hafner Place, LLC for approval of the preliminary plat for the Third Addition to Sandstone Point Subdivision. It is located

approximately 15 miles North of Beulah, it consists of 4.77 acres, containing 2 lots, and is described as a NE4 of Section 5 T146N R87W of the Fifth Principle Meridian, Mercer County, North Dakota. Kevin Hafner is present for questions. Discussed Moore recommendations. Hafner stated they did have a drainage study when they did the last addition. Culverts are at every existing approach. Roads are all developed. Developers plat out remaining lots as lots sell. Motion by Renner to approve, seconded by Cole, all members present voted "aye", motion carried. Final plat will be on October agenda.

Kevin Hafner rejoined the meeting.

Freedom Estates Subdivision Pre-App

The 14 owners of proposed Freedom Estates Subdivision (formally Sakakawea Estates, owned by Jim Kasper) are wanting to dissolve the mobile home park and create a subdivision with the already existing lots. The MH park was established before zoning codes. This will involve a rezone from R-5 to R-4, variances, preliminary and final plats of the subdivision. The subject parcel is 8.27 acres in size and is described as Tract 1D located w/in NW4 of Section 4 T146N R87W of the Fifth Principle Meridian, Mercer County, North Dakota. Myles Dittus and Tom Krank are present for questions. Krank provided some history on the mobile home court. Everyone was leasing from Jim Kasper for many years and he wanted to sell the lots but he didn't want to sell them individually. They bought the land as a lump sum and formed an LLC. Kasper surveyed the general area and the owners did an internal one. The lots are not pinned just staked out. Feel they are similar to what Weidner Bay is doing as they have been established for years. They each own a percentage based on the size. Voigt asked about an HOA. Krank stated they have something similar in place with an owner's agreement. Eslinger questioned how access is provided to lots 4-7 and 10-13. Krank stated they will need easements. There is an easement and road that goes to lots 4-7. They have an easement with Kasper on the main road that goes to parcel. Guethner asked what percentage of landowners are in agreement. Dittus stated there is hesitation, about 90% are in agreement and they need to work with these people yet. Thomas asked what the age of this park is. Jen stated it was before P&Z was established so there is no case on it. Guenther asked if they all have septic systems. Krank responded yes. Hafner asked if they would stay seasonal. They are currently all seasonal but Dittus stated they would like the flexibility to use it year around. Thomas said they would need access, road agreements, utilities. Eslinger stated concern with the septic systems and having been in place since the 70's. He would like Western Plains to be contacted and see if they have any recommendations. Hafner asked if SW water is present. Dittus responded one trailer has it and it is available. Eslinger stated in a lot of areas SW water is at capacity. The board would like them to check on all things that have been discussed. Eslinger mentioned tabling the case until November. Applicants agreed. Motion to table until November meeting by Voigt, seconded by Guenther, all members present voted "aye", motion carried.

Public Hearing to Amend Zoning Ordinances

Andy Thomas recused himself and joined the public.

Eslinger stated we will start with Chapter 4, Special Provisions, Aggregate Mining and opened up the public comment period. Andy Thomas has submitted comments (see Attachment 1). Eslinger stated this is the new aggregate ordinance to include sand, gravel, rock, scoria, clay. Thomas pointed out his suggested changes. Some are just technical changes. Discussion on reclamation and how much involvement the county wants. Discussion on bonds and county liabilities. Wes Klein would like to see the bond be required prior to permit approval. Kevin Irwin stated his concerns with Proppant sand mine and other mines leaving sand on the roads. Thomas stated it is a safety issue and if the county can pull people over for speeding on a state highway, why can't they stop semis from leaving debris on the highway or have the pit operator clean the highway off. Eslinger asked if there have been any written

complaints about sand being on the road. Jen replied none. Voigt stated verbal but not written. Eslinger stated we have to have documentation. Discussion on Thomas's reasoning for striking the setback of 100' ft from the property line. Eslinger asked for further public input. Lucinda Johnson asked about the ordinance for rare earth elements and coal. The board informed her that is regulated under Century Code. The board would like more time to review Thomas's suggested changes. Add to October agenda for further discussion. Motion by Renner to approve, seconded by Guenthner, all members present voted "aye", motion carried.

Andy Thomas rejoined the meeting.

Eslinger opened up Public Comment for Chapter 4, Special Provisions Un-Muffled Compression Brake Regulations. Eslinger stated he is not fond of the title. It is an engine brake more commonly called the Jake brake. Jake brake is the term and the engine brake is the function. Engine brake should be included in the name. Eslinger stated if we are not going to state the decibels in the ordinance because they are listed in the industrial ordinance then this section should refer to the industrial section. Thomas stated in Section A it states the purpose and engine brake is listed. He believes in Section D the wording of un-muffled and its intent is getting the guys who have the big pipes on the top of semis and no mufflers. Eslinger feels the fine of \$50 is not much of a violation fee. Discussion on signage. More discussion on fee amount and adding the word engine in title. Recommendations of changing fee from \$50 to \$150. Eslinger. Liz Lundstrom stated her concerns with the numbering of the drafts and updating the table of contents. Motion by Cole, seconded by Hafner to approve the ordinance with the change of fee from \$50 to \$150. Voigt voted nay, all others present voted "aye".

Other Business

Jen is looking for some recommendations on the fee schedule. Eslinger feels Mercer County is in the middle of the fee schedules amongst other counties. Eslinger feels the recommendations are still not high enough. The fees have not been fully updated in 20 years. Needs to be done more frequently to keep up with inflation. Voigt feels they should be updated every 5-10 years. Eslinger feels the fees should be similar to hunting fees. Out of state tags cost more than in state tags. Eslinger feels that looking at the industrial, the industrial fees should be higher, along with the transmission line fee. Jen stated the fees are all over the place in ND. It's hard to determine where to start. Wes Klein stated our communities in this county should benefit the greatest from a development coming in. The fee schedule should commensurate with the size and scoop of the project along with the community development benefit agreement which could be part of that fee. If it doesn't affect the 3% cap and the state can't put any of it in their pocket, then why not. Guenthner mentioned using a tiered system. Hafner asked if the fees and development agreement could be two different things. Voigt stated yes. Wes Klein stated they probably can be but have to happen simultaneously and before any approval. Liz Lundstrom stated there is not community benefit agreement in the ordinance because the commissioners took it out. Thomas stated it can be addressed in the CUP. Lundstrom disagrees. Discussion on building cost versus project cost. Eslinger questioned the timeline of when the new fees could be approved. Jen will verify with States Attorney on the process. Discussion on 1% for Industrial. Jen asked for the recommendations she should give to the commissioners. They feel they should be higher and to send her recommendations to the board.

Eslinger asked for any public comment. Michael Berg gave public comment.

Motion by Cole to adjourn, seconded by Renner, all voted "aye". Meeting adjourned at 9:30 pm.

APPROVED:

Jen Neumiller, Land Use Administrator

ATTEST:

Mike Eslinger, Chairman

DRAFT: Aggregate Material Mining 8/18/26 Contents Aggregate Material Mining Regulations (Section within Chapter 4) Mercer County, ND B. C. D. Applicability and Covered Activities. — 1 Application Requirements. Conditions for Approval. Standards and Setbacks. — Reclamation Requirements.

Aggregate Material Mining Regulations (Section within Chapter 4)

A. Definitions

Aggregate Material Mining: processes for the removal of aggregate materials, including sand, gravel, scoria, and rock, from the surface of the earth. Includes crushing, handling, and bulk storage of extracted materials. This definition does not include Pits.

Borrow Pit: The temporary use of a site to excavate material for fill at a single County or State Road or bridge construction project taking place in Mercer County.

B. Applicability and Covered Activities.

1. No excavation of sand, gravel, rock, scoria, or clay shall be allowed except as provided by this section and in compliance with North Dakota Century Code Chapter 38-16 (Surface Mining Reports).
2. The provisions of this section shall not apply to any excavation for agricultural purposes or for uses requiring less than 5,000 cubic yards of excavation.
3. The provisions of this section shall not apply to any Borrow Pit as defined in this ordinance.
4. Except as allowed by paragraphs 2 and 3 of this section, a conditional use permit shall be required before beginning any excavation of sand, gravel, rock, scoria, or clay within Mercer County.

C. Application Requirements.

The applicant for a permit for excavating sand, gravel, rock, scoria, and clay shall submit the following:

1. Vicinity map showing site **proposed location**, proposed **haul access** route, and all residences, and public facilities within one mile of the site and one mile of the **haul route access road**.
2. Site map that shows **surveyed site boundary** and identifies the **total acreage to be excavated**.
 - a. **Site boundary**

b. **North Arrow**

c. **Total acreage**

d. **Active Mining Area(s)**

e. **Stockpile Area(s)**

f. **Present and Planned Structures** ³⁰

3. Reclamation plan.

- a. **Written agreement between the applicant and the landowner.**
- b. **Reclamation of the site shall be completed within 12 months after the expiration of the Conditional Use Permit or no later than 24 months after mining operations have not been conducted on a least 4 days per month.**
- c. **There shall be compatibility with the adjoining property landform**
- d. **Cannot diminish or restrict property outside the proposed boundary**
- e. **3:1 slope from mining boundary**

4. ~~Written evidence of a reclamation agreement binding on the pit operator, applicant and owner of the materials to be mined that authorizes the County and the surface owner to enforce the same.~~

5. **Weed Management** - provide documentation that the site has inspected for invasive and/or noxious weeds by the County Weed Officer before mining and excavation commences. The inspection shall occur at a time determined by the County Weed Officer. The Weed Officer shall provide the applicant with documentation of the inspection and the applicant shall submit such documentation with the conditional use application. If during the inspection, it is determined that the site is infested with invasive and/or noxious weeds, the applicant shall be required to submit a weed treatment plan that has been reviewed and approved by the County Weed Officer. The plan shall at a minimum include the following components:

- a. ~~Pit opening plan, which would include an inspection prior to opening of the pit;~~
- b. ~~Overburden Material Stockpile Plan;~~
- c. ~~Active Pit Mining Plan;~~
- d. ~~Buffer Zone Area Plan;~~
- e. ~~Mine Area Reclamation Plan; and,~~
- f. ~~Yearly Inspection Proposal Plan which would include annual inspection by the County Weed Officer.~~

- g. The Plan shall be submitted as part of the conditional use permit application. Weed control treatments shall be completed and a reinspection by the Weed Officer shall be completed prior to the commencement of mining operations. A written reinspection shall be filed with the Mercer County Zoning Administrator prior to the commencement of mining operations.

6. Truck Hauling/Road Route Plan — a map shall be submitted showing all routes within the County proposed the proposed route to be used for hauling the excavated material from the excavation proposed site to a State Highway final destination(s).
7. Written road agreement binding on the pit applicant and surface owners of lands utilized to access the pit other than access by public easement or public right-of-way, and owner of the materials to be mined.
8. Operations Plan including a timetable for the operation startup and the anticipated lifespan of the operation, of the mining activity, and scaled maps showing property lines, site boundaries, existing contours, proposed contours after reclamation, depth of excavation, storage location of mined materials on site, storage location of topsoil and overburden, access roads and points of access to the site, staging plan, stormwater management plan, location of structures, location of vehicle parking, and other site features.

D. Conditions for Approval

A conditional use permit may not be approved unless the following requirements are met:

1. No application shall be for a site of more than 80 surface acres.
2. Approved haul route and road agreement between the pit operator, applicant, and owner of the materials to be mined and the owners of all easements, rights-of-way, and lands utilized to haul mined materials from the proposed location pit, whether such easements, rights-of-way, or lands are in Mercer County or not.
3. Approved dust control plan.
4. Approved reclamation plan.
5. Approved weed management plan.
6. Provide bond or other financial assurance as required by the Mercer County Board of Commissioners.
7. Signage and contact information shall be placed at all road access points to the property which identifies:
 - a. Pit Operator emergency contact information.
 - b. County emergency contact information.
 - c. Legal owners of the property.
 - d. Name of Pit operator.
 - e. Legal description of the real property upon which development is occurring.

E. Standards and Setbacks.

1. All mining and excavation sites Proposed location shall be located so as to protect and preserve agricultural adjoining land and to minimize the traffic, noise, dust, fumes, vibration impact on adjoining uses, and disruption of known water sources.
2. The perimeter of the approved excavation site shall be at least:
 - a. 1,000 feet away from any residence unless there is an agreement binding the owner of the residence and the applicant, and the pit operator allowing a lesser distance.
 - b. 100 feet away from any property line,
 - c. 100 33 feet (plus any additional distance needed to allow for a 3:1 slope) away from any undeveloped centerline of a section line.
 - d. 150 feet (plus any additional distance needed to allow for a slope) away from local, state, and federal road centerlines and developed section lines.
3. Archeological Resource Survey and Consultation. The applicant shall consult with the State Historic Preservation Office (SHPO) at the State Historical Society of North Dakota at the beginning Of the planning process for the proposed operation.
 - a. If SHPO staff determine that an archaeological survey is recommended for any part of the proposed project, the applicant shall contract with a qualified archaeologist to complete such surveys, and shall submit the results to the Zoning Administrator and the SHPO no less than 60 days prior to the start of construction. The SHPO will make recommendations for the treatment of any significant archaeological sites which are identified. Any issues in the implementation of these recommendations will be resolved by Mercer County Board of Commissioners in consultation with the SHPO. All information submitted under this provision is subject to NYC Section 55-02-07.1.
 - b. If any archaeological sites or human remains are found during construction, the applicant shall follow standard operating procedures as established by the SHPO and in accordance with NDCC Section 23-06-27 and associated North Dakota Administrative Code 40-02-03.

Reclamation Requirements:

1. Reclamation of the site shall be completed within one year of the resource being exhausted, the site being abandoned, or the last calendar month in which mining operations were conducted on at least four days
2. Reclamation of the site shall be consistent with the reclamation plan approved by the County during the conditional use permit approval process.

3. All top soil shall be replaced.

4. Natural protective vegetation shall be planted and replanted as necessary until the site vegetation is firmly established.

5. There shall be compatibility with the existing surrounding landform with respect to vegetation, slope, surface materials and ground water resources