

Morton County Commission Meeting Agenda

November 10, 2014

Commission Room, Morton County Courthouse

210 2nd Ave NW, Mandan ND

5:30 PM

1. Call to order
 - Roll Call
 - Approval of Agenda
 - Approval of minutes of previous meetings
 - Approve monthly bills and payroll – Commissioner Zachmeier

2. Wendy Bent/Human Resources
 - Paid Holidays

3. Dave Shipman/Morton County Sheriff
 - Letters of resignation

4. Mike Bartholomew/Social Services
 - State/County Agreement – Food Stamp Act

5. Daniel Nairn/County Planner
 - Zoning change from Agricultural to Industrial District request by Marmot Properties, LLC
 - Land use code amendment regarding energy conversion facilities
 - Encroachment permit form County Road 139 in Hebron
 - Letter to NDDOT regarding the HWY 49 construction project through Glen Ullin.

6. Dawn Rhone/ County Auditor

*ISSUES MAY BE ADDED OR DELETED BY MEETING DAY.

Please note: These are unofficial minutes and are subject to change. They will be approved and become official at the next regularly scheduled meeting.

MORTON COUNTY COMMISSION REGULAR MEETING
October 28, 2014

The Morton County Commission Regular Meeting was called to order on October 28, 2014 at 5:30 PM by Vice-Chairman Zachmeier at the Morton County Courthouse, 210 Second Avenue NW, Mandan, North Dakota. Others present were Commissioners Boehm, Leingang and Schulz, Auditor Rhone, States Attorney Koppy and Assistant States Attorney Grosinger.

Boehm moved and Leingang seconded to approve the agenda with additions. All voting aye, motion carried.

Boehm moved and Schulz seconded to approve the minutes of the October 6, 2014 meeting. All voting aye, motion carried.

Leingang moved and Schulz seconded to approve bills. All voting aye, motion carried.

Schulz moved and Boehm seconded to accept the resignation of Park Board Member Jerry Jeske. All voting aye, motion carried.

Boehm moved and Schulz seconded to dissolve the membership of Ray Morrell on the County Park Board. All voting aye, motion carried.

Boehm moved and Schulz seconded to appoint Tony Goetzfried to an unexpired term on the Morton County Park Board. All voting aye, motion carried.

Schulz moved and Boehm seconded to appoint Doug Griffin to an unexpired term on the Morton County Park Board. All voting aye, motion carried.

Schulz moved and Leingang seconded to approve refunding the MedCenter One Living Project MIDA bonds. All voting aye, motion carried.

Schulz moved and Leingang seconded to close the courthouse on the day after Thanksgiving with employees taking vacation. Voting aye: Schulz, Leingang, Boehm; voting nay: Zachmeier.

Schulz moved and Leingang seconded to approve advertising up to \$425 for the open position in Communications. All voting aye, motion carried.

Boehm moved and Leingang seconded to approve abatements 4574-4583. All voting aye, motion carried.

Leingang moved and Boehm seconded to request that Custer Health vacate the former Avitus area and Social Services occupy that space effective December 31, 2014. All voting aye, motion carried.

Boehm moved and Schulz seconded to approve purchasing a dual trained K-9 from Forfeiture funds. All voting aye, motion carried.

Schulz moved and Leingang seconded to postpone taking action on selling a parcel (located in Lot 13 of Block 103) of county owned land in Hebron. All voting aye, motion carried.

Leingang moved and Boehm seconded to approve a Gravel Pit Lease with Mark Stegmiller & Jody Stegmiller at a rate of \$1.25 per yard. All voting aye, motion carried.

Schulz moved and Boehm seconded to approve the minimum sale prices for the delinquent tax properties as presented. All voting aye, motion carried.

Schulz moved and Boehm seconded to approve the juvenile detention service contract for the Youth Correctional Center. All voting aye, motion carried.

The total of all county funds expended from October 7, 2014 through October 28, 2014, equals \$285,076.47. A detailed list of funds expended by check is available for public inspection anytime during regular business hours at the Morton County Auditor's Office.

Schulz moved and Leingang seconded to adjourn at 7:05pm. All voting aye, motion carried.

Bruce Strinden, Chairman, Morton County Commission _____

Dawn R Rhone, County Auditor _____

State/County Agreement

The State of North Dakota and the Morton County Social Service Board, hereby agree to act in accordance with the provisions of the Food Stamp Act of 1977, as amended, implementing regulations and the FNS-approved State Plan of Operation. The State and Morton County Social Service Board further agree to fully comply with any changes in Federal law and regulations. This agreement may be modified with the mutual written consent of both parties.

Provisions

The Morton County Social Service Office agrees to:

1. Administer the program in accordance with the provisions contained in the Food Stamp Act of 1977, as amended, and in the manner prescribed by regulations issued pursuant to the Act; and to implement the FNS-approved State Plan of Operation.
2. Comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), section 11(c) of the Food Stamp Act of 1977, as amended, the Age Discrimination Act of 1975 (Pub. L. 94-135) and the Rehabilitation Act of 1973 (Pub. L. 93-112, sec. 504) and all requirements imposed by the regulations issued pursuant to these Acts by the Department of Agriculture to the effect that, no person in the United States shall, on the grounds of sex, race, color, age, political belief, religion, handicap, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under the Food Stamp Program.
3. (For counties on or near Indian Reservations only). Implement the Program in a manner that is responsive to the special needs of American Indians on reservations and consult in good faith with tribal organizations about that portion of the State’s Plan of Operation pertaining to the implementation of the Program for members of the tribe on reservations.

The State agrees to:

1. Carry-out any other responsibilities delegated by the Secretary in the Food Stamp Act of 1977, as amended.

Date _____

Date _____

Signature _____

Signature _____

(Governor or Authorized Designee)

Chairperson, Morton County Commission

STAFF REPORT | MORTON COUNTY DEPARTMENT OF PLANNING AND ZONING

ITEM 1 Marmot Zone Change

Location:	SW ¼ and SE ¼ of Section 30, Township 139N, Range 81 W
Public Hearing:	October 23, 2014 Planning and Zoning Commission Regular Meeting
Acres:	61
Application Type:	Zoning Map Amendment
# of Properties:	1
Applicant:	Marmot Properties, LLC
Existing Zoning:	Agricultural (A)
Citizen Outreach:	33 letters sent (10/9/2014) Notice of Public Hearing advertised
Proposed Zoning:	Industrial (I)
Application Fee:	\$200 (10/1/2014)
Proposal:	The applicant is seeking approval of zone change from Agricultural (A) District to Industrial (I) District.
Recommendation from Staff:	Approve the zoning map amendment from Agricultural (A) District to Industrial (I) District for a tract of land of approximately 61 acres being all of Government Lot 3, the NE ¼ of the SW ¼ and that portion of the NW ¼ of the SE ¼ lying west of Outlot "L" of said NW ¼, all in Section 30, Township 139 North, Range 81 West, including Outlot "I" of the N ½ of said SW ¼, Lot 1 of Outlot "M" of said Government Lot 3 and less Outlot "H" of said Government Lot 3 (not including that portion of said Outlot "I" lying within said Outlot "H"), less Outlot "N" of said N ½ and less Skinner's 1st Subdivision of Morton County, North Dakota.

OVERVIEW AND BACKGROUND

The current landowner, Marmot Properties, LLC, is considering sale of property along Sunny Road and County Road 82 to a buyer for an industrial use. The seller is initiating a zone change to Industrial (I) District before the transaction occurs, in order to have an accurate appraisal of the property. The exact industrial use being contemplated has not been disclosed at this time. If a building permit will be required, the buyer would need to come back to the County Commission for a subdivision at a later date.



FIGURE 1 LAND PROPOSED FOR REZONING

FINDINGS OF FACT AND ANALYSIS

An industrial zoning designation for this site is consistent with previously adopted plans. The Future Land Use Plan, adopted by the County Commission in 2007, shows this area as industrial. The current draft of

the Mandan Comprehensive plan (not yet adopted) also shows this land as industrial. Both plans recommend a commercial node on the north side of Business Loop 94, in order to create a further buffer from residential uses.

The land proposed for rezoning is bordered by industrial uses to the west, east, and south. Knife River has a major gravel excavation and crushing operation to the west, zoned as Industrial (I) District. The land to the south is owned by the State of North Dakota, but it is leased to Fisher Contracting and Mariners Construction for gravel extraction and an asphalt batch plant. This land is still zoned Agricultural. The land owned by Marmot, being proposed for rezoning, has also been extensively excavated in the past. Skinners Roll-Off operates a salvage yard on an adjacent parcel, and Sunnyside Feeds and Dyce Chemicals have operations nearby.

Outlot I, part of the area proposed for rezoning, currently has a recreational vehicle parked on the lot, apparently connected to electricity and water. There is also a dilapidated structure that appears to be unoccupied. This lot is zoned as Agricultural (A) District, but it is being taxed as a residential parcel. This residential use will have to be removed upon receiving an industrial zoning designation.

The northern part of the property is in the Special Flood Hazard Area, inside of an old channel of the Heart River. However, most of the land is outside of the floodplain on a bluff. Any structural or land disturbance activity within the floodplain would need a floodplain development permit. This is not anticipated to be a problem in this case.

An old spur track to the Burlington Northern railroad exists to the north-east of this property. The potential buyer has indicated an interest in reconstructing this track to bring rail cars up the bluff to a future loading facility on the property. This abandoned track also travels through Skinners Roll-Off Subdivision. The possible access to the railroad tracks is what creates the appeal of this property, and contributes to the appropriateness of an industrial rezoning.

There are a few residences near the property: 4019 and 4021 County Road 82 are homes, and there are two homes at the 2340 Sunny Rd South address. The owners of these properties have been informed of the proposed zone change.

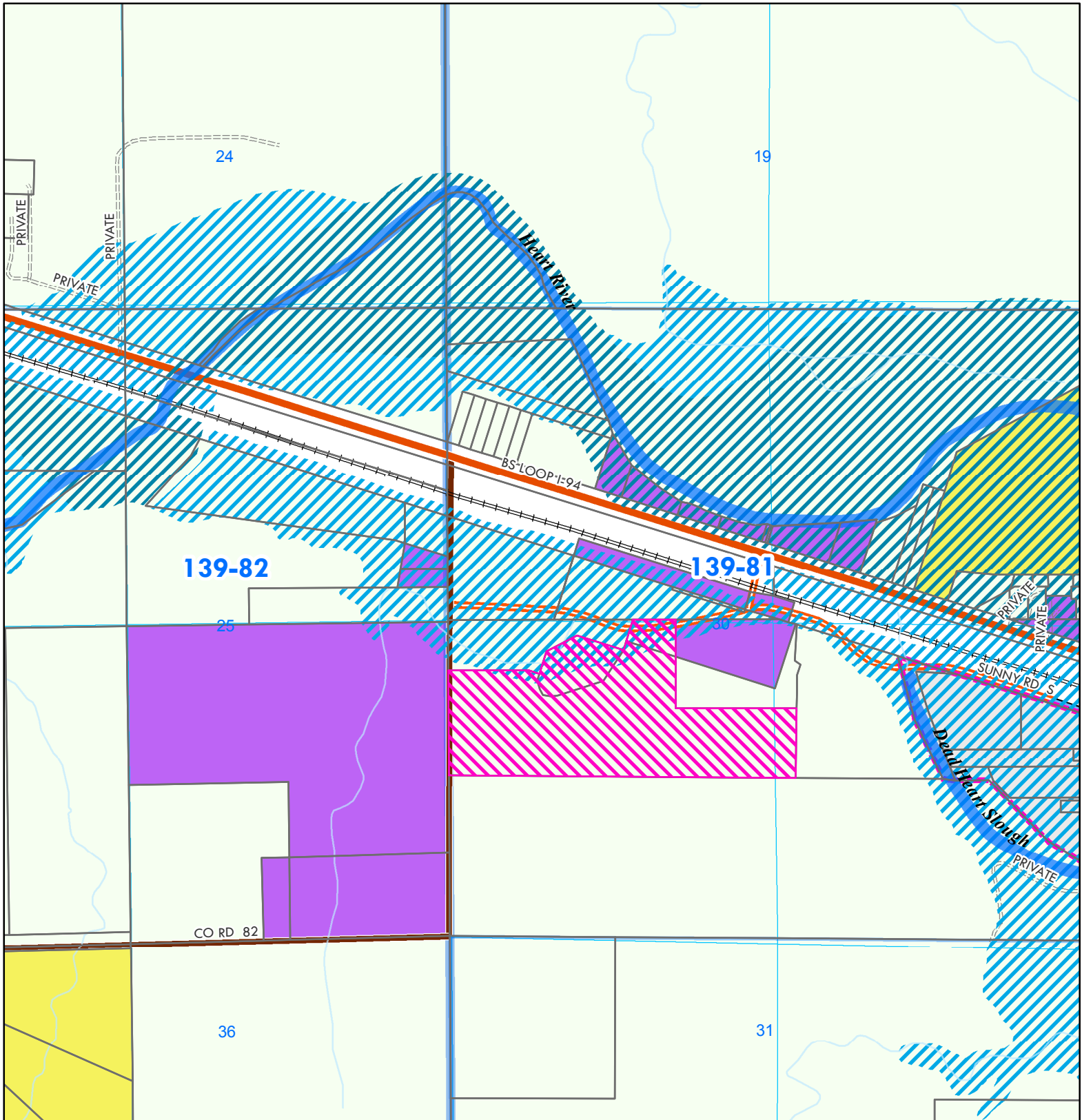
STAFF RECOMMENDATION

Approve the zoning map amendment from Agricultural (A) District to Industrial (I) District for a tract of land of approximately 61 acres being all of Government Lot 3, the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ and that portion of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ lying west of Outlot "L" of said NW $\frac{1}{4}$, all in Section 30, Township 139 North, Range 81 West, including Outlot "I" of the N $\frac{1}{2}$ of said SW $\frac{1}{4}$, Lot 1 of Outlot "M" of said Government Lot 3 and less Outlot "H" of said Government Lot 3 (not including that portion of said Outlot "I" lying within said Outlot "H"), less Outlot "N" of said N $\frac{1}{2}$ and less Skinner's 1st Subdivision of Morton County, North Dakota.











ATTACHMENTS

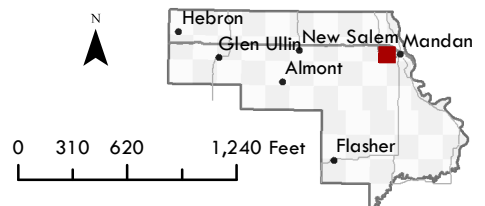
1. Zoning Map
2. Area proposed for rezoning

Marmot Zone Change



Zoning

- | | | | | | |
|--|-------------------------|---|------------------------------|---|------------|
|  | A - Agricultural |  | Out of Jurisdiction |  | Floodplain |
|  | C - Commercial |  | R - Residential |  | Floodway |
|  | CL - Limited Commercial |  | RC - Recreational | | |
|  | I - Industrial |  | RM - Residential Multifamily | | |



Proposed boundaries of site not exact.
For planning purposes only.



SE1/4
NW1/4
SEC. 30

SKINNER'S 1ST

OUTLOT "N"

NE1/4
SW1/4
SEC. 30

OUTLOT "L"
NW1/4
SE1/4
SEC. 30

LOT 1 OF
OUTLOT "M"

OUTLOT "H"
(LESS A PORTION
OF OUTLOT "I")

OUTLOT "I"

QCD - Doc
358817

GOV'T LOT 3
SEC. 30

TOTAL OWNERSHIP
60.7 Acres

QCD - Doc # 375244

GOV'T LOT 4
SEC. 30

SE1/4
SW1/4
SEC. 30



**TOMAN ENGINEERING
COMPANY**

501 1st Street NW, Mandan, ND 58554
Phone: 701-663-6483 * Fax: 701-663-0923

EXHIBIT "A"

MORTON COUNTY COMMISSION

RESOLUTION NO. PZ14-16

A RESOLUTION OF THE COUNTY OF MORTON, NORTH DAKOTA, TO ENACT SECTION 5-085 ENERGY CONVERSION FACILITY AND TO AMEND AND RE-ENACT SECTIONS 2-110 AND 12-020.

BE IT RESOLVED BY THE COUNTY COMMISSION OF MORTON COUNTY, NORTH DAKOTA:

SECTION 1. Enactment. Section 5-085 "Energy Conversion Facility" of the Morton County Land Use Code is hereby enacted as attached.

SECTION 2. Amendment. Sections 2-110 and 12-020 of the Morton County Land Use Code are hereby amended as attached.

SECTION 3. Repeal. All resolutions or parts of resolutions in conflict with this ordinance are hereby repealed.

SECTION 4. Taking Effect. This resolution shall take effect upon final passage, adoption and publication.

ADOPTED AND RESOLVED this ____ day of _____ 20__.

ATTEST:

Morton County Commission

Auditor
Dawn R. Rhone

Chairman
Bruce Strinden

Amend Morton County Land Use Code as follows (underlined text is added, strike-through text is removed):

Section 2-110 | Use Table

Use Type (with reference to applicable standards)	Zoning Districts							
	A	R	RM	RC	C	CL	I	IL
Industrial Uses								
Asphalt, Concrete Batch, or Aggregate Plant	S	-	-	-	-	-	P	-
Contractor Storage Yard	S	-	-	-	-	-	P	S
<u>Energy Conversion Facility – Section 5-081</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>S/C</u>	<u>=</u>
Fertilizer Facility	S	-	-	-	-	-	P	-
Gravel Pit or Mineral Processing – Section 5-110	S/C	-	-	-	-	-	P/C	-
Salvage Yard – Section 5-130	-	-	-	-	-	-	S/C	-
Laboratory, research	-	-	-	-	-	-	P	P
Manufacturing, major	-	-	-	-	-	-	P	-
Manufacturing, minor	-	-	-	-	-	-	P	P
Oil and Gas Well	P	P	P	P	P	P	P	P
Slaughterhouse	-	-	-	-	-	-	S	-
Warehouse, Storage, and Wholesale Distribution	S	-	-	-	-	-	P	P
Solid Waste Facility – Section 5-160	S/C	-	-	-	-	-	S/C	-
Sewage Treatment Plant	S	-	-	-	-	-	P	-
Storage, fuel	-	-	-	-	-	-	P	-
Telecommunications Tower	S	-	-	-	-	-	P	P
Utility, public facility	P	-	-	-	-	-	P	P
Wind Energy Facility – Section 5-180	S/C	-	-	-	-	-	-	-

Section 5-085 Energy Conversion Facility

- (a) **Permitted Districts:** An energy conversion facility may be permitted in an Industrial (I) District with a special use permit, subject to additional standards in this section.
- (b) **Standards:** An energy conversion facility shall meet the following standards:
 - (1) The applicant must disclosed all planned units of a facility at the time of initial application for the facility.
 - (2) The applicant shall provide the summary portion of any application for an energy conversion facility certificate of site compatibility submitted to the North Dakota Public Service Commission for said facility as required under NDCC Chapter 49-22. If no application is required by the Public Service Commission, the special use permit application shall substantially conform to the requirements of NDAC Chapter 69-06-04.
 - (3) The applicant shall submit any and all materials which constitute a ruling by the North Dakota Public Service Commission on the proposed energy conversion facility.

Section 12-020 Specific Definitions

For the purpose of this code certain terms and words are hereby defined:

...

Energy Conversion Facility: Any plant, addition, or combination of plant and addition, designed for or capable of generation, by any means other than wind energy conversion, exceeding forty (40) megawatts of electricity; manufacture or refinement of fifty million cubic feet or more of gas per day, regardless of the end use of the gas; manufacture or refinement of twenty thousand barrels or more of liquid hydrocarbon products per calendar day; or enrichment of uranium minerals.

...

Utility, public facility: A building or structure used or intended to be used by any public utility, including but not limited to any pumping and booster station; water treatment plant, well, reservoir, tank, or other storage facility; electric ~~generating plant, distribution, or transmission~~ substation; telephone switching or other communications plant, earth station, or other receiving or transmission facility; any storage yard for public utility equipment or vehicles; and any parking lot for parking vehicles or automobiles to serve a public utility. The term does not apply to energy conversion facilities, wind energy facilities of 100kw capacity or greater, or facilities for storage and treatment of petroleum or natural gas. The term also does not include transmission structures and the like, as exempted from this code in Section 1-040(b).

MORTON COUNTY RIGHT-OF-WAY ENCROACHMENT PERMIT

Permit to allow a structure or installation to encroach within a public right-of-way under the jurisdiction of Morton County, North Dakota.

Applicant

Name: Willard Sailer	Phone: 701-663-5052	Email:
Mailing Address: 3904 Faye Ave N, Mandan, ND 58554		

Property Owner (if different than applicant)

Name:	Phone:	Email:
Mailing Address:		

Property and Encroachment Description

Legal Description of Property (section, township, lot, block, etc.): Lots 13 and 14, Block 103, Hebron Proper, Morton County, North Dakota.	
Address of Property: No Address	Roadway Being Encroached: County Road 139
Reason for Encroachment: A barn was built in the mid 1950's on lots within Hebron. These improvements were built across a property line and into the Right of Way of CR 139 owned by Morton County. This land was acquired by the county in 1945. The structures were also built on ROW owned by the City of Hebron. The property is being sold to another party, and the buyers want to clear up the land rights to this barn before the transaction occurs.	
Location of Encroachment: The barn encroaches into Lot 13, which is owned by Morton County. This permit only applies to the existing barn, and does not apply to box stalls or any other improvements currently on Morton County property, nor does it grant the right to install additional improvements. The barn may not be expanded to further encroach into the Morton County property.	

Duration of the Encroachment Permanent
 Temporary, to be in place for _____

Provisions of Permit

Subject to the following terms and conditions, this provision is included and is part of the attached permit, is hereby granted:

- (a) **Term.** This permit shall run with the land and shall be in force and effect from the date hereof until revoked as herein provided.
- (b) **Revocation.** This permit may be revoked by the Morton County upon 180 days written notice to Permittee, at the address shown in the application hereto attached, but the Morton County reserves the right to revoke this permit without giving said notice in the event Permittee breaks any of the conditions or terms set forth herein.

- (c) **Notification.** Any site plans or drawings detailing the encroachment are to be submitted to the Morton County Engineer in advance, and no work shall be commenced until Permittee notifies the Morton County Engineer when he proposes to commence work.
- (d) **Changes in Street.** If Morton County changes the roadway necessitating changes in structure or installations installed under this permit, Permittee shall make necessary changes without expense to Morton County.
- (e) **Morton County Held Harmless from Claims.** In accepting this permit, the Permittee, its/his successors or assigns, agree to protect Morton County and save it harmless from all claims, actions or damage of every kind and description which may accrue to, or be suffered by, any person or persons, corporations or property by reason of the performance of any such work, character of materials used or manner of installations, maintenance and operation or by the improper occupancy of said street right-of-way, and in case any suit and or action is brought against Morton County and arising out of, or by reason of, any of the above causes, the Permittee, its/his successors or assigns, will, upon notice to it/ him of the commencement of such action defend the same at its/his sole cost and expense and satisfy any judgment which may be rendered against Morton County in any such suit or action.
- (f) **Drainage.** If the work done under this permit interferes in any way with the drainage of Morton County roadways affected, Permittee shall, at their own expense, make such provisions as the County Engineer may direct to provide sufficient drainage.
- (g) **Trash and Debris.** Upon completion of work contemplated under this permit, all rubbish and debris shall be immediately removed and the roadway and roadside left in a neat and presentable condition satisfactory to Morton County.
- (h) **Morton County Right Not to be Interfered With.** All such changes, reconstruction or relocation shall be done by Permittee in such a manner as will cause the least interference with any of Morton County's work, and the Morton County shall not be liable for any damage to the Permittee by reasons of any such work by the Morton County, its agents, contractors or representatives, or by the installations or structures placed under this permit.
- (i) **Removal of Installations or Structures.** Unless waived by Morton County upon termination of this permit, the Permittee shall remove the installations or structures contemplated by this permit and restore the premises to the condition existing at the time of entering upon the same under this permit, reasonable and ordinary wear and tear and damage by the elements, or by circumstances over which the Permittee has no control, excepted.
- (j) **Maintenance at Expense of Permittee.** Permittee shall maintain, at its/ his sole expense the installations or structures for which this permit is granted, in a condition satisfactory to Morton County.
- (k) **Morton County Not Liable for Damage to Installations.** In accepting this permit, the Permittee agrees that the Morton County shall not be held liable for any damage or injury done to said installations or structures by any Morton County employee engaged in construction, alteration, repair, maintenance or improvement of the Morton County roadway.
- (l) **Morton County to be Reimbursed for Repairing Roadway.** Upon being billed therefore Permittee agrees to promptly reimburse Morton County for any expense incurred in repairing surface of roadway due to settlement at installation, or for any damage to roadway or structure as a result of the work performed under this permit.
- (m) **Public Utilities.** The permittee accepts sole responsibility for coordination with all appropriate public utilities, and the compliance with any existing easements granted to public utilities.

