

THE MORTON COUNTY PLANNING AND ZONING COMMISSION MINUTES JULY 24,
2024 MEETING MINUTES

Chairman Kist called the Morton County Planning and Zoning Commission meeting to order at 5:37P.M. July 24 2024, in the Morton County Commission Room, 210 2nd Ave NW, Mandan, North Dakota. Commissioners present were Zachmeier, Buckley, Tomac, Ell Jr, Braun, Berger and Wald. Also present were County Planner Natalie Pierce and Auditor Deputy Eckroth. Absent Rohr

Braun moved and Buckley seconded to approve the agenda. All voting aye, motion carried.

Buckley moved and Braun seconded to approve the minutes from June 24, 2024. All voting aye, motion carried.

Chairman Kist opened the Public Hearing – request from Robbi Yellow for a variance to construct on a non-conforming log approximately .78 acres in the NE ¼ Section 11, Township 135N, Range 79W, Morton County.

Ell Jr. moved and Tomac seconded to recommend approval of the variance request to construct a new garage on the footprint of the former garage, on Lot 16, Tokach’s Timberhaven Subdivision, as the proposal does not compromise adequate functioning of the septic system on the property. All voting aye, motion carried.

Chairman Kist opened the Public Hearing – request from Wally & Lori Peter for the final plat of a short-form Subdivision known as Rosemary Second Subdivision on approximately 38.34 acres in the W ½ Section 8, Township 139N, Range 82, Morton County.

Buckley moved and Ell Jr. seconded to recommend approval of the final plat of the short-form subdivision known as Rosemary Second Subdivision, and a zoning map amendment from Agricultural to Residential, as the subdivision conforms to the regulations established in Article 7 of the Morton County Land Use Code and reasonably conforms to the land use priorities established in the 2024 comprehensive Plan and with the condition that it is their responsibility to maintain the private drive and that the County will not take over maintenance of the road. All voting aye, motion carried.

Commissioner Wald was recused for the Special Use Permit to construct a direct air capture facility, as she has signed a petition pertaining to this application and it was under the advisement from the States Attorney that Wald should recuse herself if there was a quorum.

Chairman Kist opened the Public Hearing – request from Fabian Fitterer and Retract LLC for a special use permit to construct a direct air capture facility on 86.62 acres/2,473 acres in Section 1-3 & 10-12, Township 139N, Range87W, Morton County.

- a. Carbon Capture and Sequestration Informational Overview, Tyler Hamman, EERC

Representative of Retract LLC, updated the Commission on the changes to the application for the direct air capture facility.

David Spotts, Co-Founder of Retract LLC, spoke on the company's history and expertise.

Member of the Public Lorraine Kroh, support of the project and a private landowner close to the proposed project.

Member of Public Laurie Hohbein, daughter of Lorraine Kroh, resident of Morton County and is in support of this project.

Member of the Public Lacey Knight, resides 2 miles north of the proposed project and is not in support of this project.

Member of the Public Ashley Kramer, lives a few miles from the proposed project and is not in support of this project.

Member of the Public Curtis Jundt, is not support of the proposed project and he feels it should be in an industrial zone and not agricultural.

Zackary Cassidy, Dakota Resource Council stated regulation of new technology often occurs after an accident has happened. He asked whether the County wants to be the testing lab for this new technology.

Tom Erhardt working with Retract LLC helping with the logistics of a watering trucks. Mr. Erhardt runs a water truck business, worked in the oil fields for 18 years his specialty he believes and prides himself on doing a good job he works with county superintendents to make sure he is not affecting school bus travel. If this project was approved the road would have to be interstate standards.

Member of the Public Karmen Siirtola stated she is not an engineer or a Morton County landowner other than her residence. How do we know when too much CO2 has been taken out of the air because it is needed for plants, trees, for our existence? What monitors the air quality?

Member of the Public Dawn Shepard, stated this is new technology it hasn't been proven also would like to know how you measure CO2 and will there be more pollution before capturing CO2? Ms. Shepard is not in support of the proposed project she feels we need more standards for direct air capture and would like Retract LLC to withdraw their application and allow the county to work on those standards.

Member of the Public Jamie Johnson – daughter of Rick and Donna Roemmich who are landowner of the proposed project. States 3 reason why they support this project.

1. Community, feels it will create revenue, growth and job opportunities.
2. Opportunity, feels it will be the next economic boom for ND.
3. Revenue, it will create financial opportunity for their family that farming never provided.

Member of the Public Del Hitchcock, worked at Dakota Gasification Plant he has concerns with Retracts statement of employing 3 to 7 fire fighters on staff 24/7 feels that is not enough staff to fight fires and also the statement that New Salem and Glen Ullin Rural Fire Departments would be on call feels this is not correct because the fire fighter would need to be trained for industrial fires. Mr. Hitchcock is not in support of the proposed project and asks that Retract withdraw their application.

Member of the Public Randy Roemmich, he is in support of the proposed project he feels the biggest thing will be the money, stated this will bring money to the community Glen Ullin and New Salem, it will help our economy, the landowner involved will make money off of this project. Projects like this may possibly grow and more people could make money.

Member of the Public Lyle Peltz, he is not in support of the proposed project.

Donald Lafleur, Morton County Tax Director, stated Century Code 57-02-04 Subsection 2 specifically excludes machinery and equipment used for trade or manufacture. In his estimation, the generators and direct air carbon capture units would be considered machinery and therefore not be subject to property taxes. It is an area of uncertainty and will require more research. He stated that the \$15 million figure that the applicants have been using includes machinery and is likely not an accurate portrayal of potential assessed value for the project. The 2nd Century Code reference is pollution abatement 57-02-08 Subsection 37 which has specific exclusions for pollution abatement projects. If this project were to fall under that category, the project would be exempt from property tax. If the County were to assess this project it would probably be to bring the 86 acres where the site is located from the current agricultural value, up to a market value, plus the value of any structures that may be constructed on the site.

Member of the Public Lindsey Roemmich, daughter in-law of Rick and Donna Roemmich, she is in support of the proposed project. Lindsey stated that all landowners have property rights we are not denying the fact we are in it for the money, but that is what America is built on.

Member of the Public Linda Hagen, is not in support of the proposed project and concerned with earthquakes.

Member of the Public Marshall Curtis Feland, it not in support of the proposed project, stated that the project is proceeding to fast and many unanswered questions.

Member of the Public Mark Faiser, concerned with major leaks, earthquakes, who is in charge at that point/liability?

Member of the Public Sherry Schatz, concerns with sewage, runoff, and emergency plan.

Member of the Public Jim Melchoir, retired 42 years from North American Coal. Stated he would like the county to develop reasonable zoning for facilities like this and not pigeon-hole the application into procedures the County has for other uses. The proposed project is an entirely new use he feels it is premature to approve a facility like this with all the risk, as they haven't given the public one benefit except redistribution of taxpayer money.

Member of the Public Sandra Roth, daughter of Fabian Fitterer, spoke in favor of the project.

Member of the Public Melissa Friesz, concern with traffic, not in support of the proposed facilities.

Member of the Public Brent Johnson, son-in-law of Rick and Donna Roemmich and supports the proposed project.

Member of the Public Greg Faiser, has concerns with this project.

Member of the Public Kurt Swenson, suggested disregarding the engineering and modeling that were submitted with the application as not being adequate.

Member of the Public Dan Faiser, concerns with this proposed project.

Amanda from the EERC addressed questions related to liability for accidents and geology with respect to earthquakes.

Natalie stated that Western Plains Public Health staff did not have concerns about the site plan, with regard to having room for an adequate septic system to be installed.

Natalie stated that the federal subsidy is around \$85 per ton of CO2 sequestered, and the cost per ton to sequester is - very ballpark - \$400. It is not a 1:1 ratio.

Commissioner Buckley stated that she checked with an Agronomist at Carrington Research Extension Center asking about crops and taking up carbon with the smoke in the air asked if that is a contributor to our high yields last year. The Agronomist from Carrington Research Extension Center stated that we cannot scientifically say the great yields were all due to carbon in the air. It could be because of fertilizer, crop rotation, it could also be the temperature and moisture were right.

Zachmeier moved and Braun seconded to recommend denial of the request for a special use permit for a direct air capture facility to the Morton County Commission as the details in the application provided to Morton County partially on June 25 and partially on Jun 28 as there is not enough adequate water infrastructure to support the project at that location at this time and the project lies too close to sensitive land uses such as homes which will continue to be applied until the county establishes permanently adopted setback standards.

Roll call voting aye, Zachmeier, Tomac, Ell Jr., Buckley, Braun, Berger and Kist. Motion carried.

Chairman Kist opened the Public Hearing – seconded reading of Resolution 30-2024-03 to impose a moratorium on the development of all data centers and cryptocurrency mining facilities until zoning standards can be developed for said use.

Braun moved and Tomac seconded to recommend approval of “Resolution 30-2024-03, A RESOLUTION OF THE COUNTY OF MORTON, NORTH DAKOTA, TO IMPOSE A MORATORIUM ON THE DEVELOPMENT OF ALL DATA CENTER AND CRYPTOCURRENCY MINING FACILITIES UNTIL ZONING STANDARDS CAN BE DEVELOPED.” All voting aye, motion carried.

Braun moved and Tomac seconded to adjourned the meeting at 9:20pm.