

Planning and Zoning Commission Minutes

July 10, 2023

Meeting was held at the McKenzie County Courthouse Yellowstone Room in Watford City, ND and called to order at approximately 5:00 PM.

PLEDGE OF ALLEGIANCE AND ROLL CALL

Members Present: Butch Fleck, Cody Knetzger, Craig Hystad, John Irwin,
Kathy Skarda, Tim Transtrom

Members Absent: Matt Beard, Lance Renville

Staff Present: Planning and Zoning Director Sandee Kimpel, Planning Attorney Ari Johnson, Code Enforcement Officer Andrew Steck, Planner Candy Lundgren, Administrative Assistant Cindy Jensen

For others, see sign in sheet at end of minutes.

Meeting was relocated to the McKenzie County Courthouse Yellowstone and not livestreamed due to technical issues.

APPROVE AGENDA

Director Kimpel stated that #07-23 Northern Lights Lodge be removed from agenda.

Motion to Approve Amended Agenda with #07-23CUP Northern Lights Lodge Removed; Motion by Craig Hystad ; Second by Kathy Skarda; Voice Votes: all Ayes

Motion to approve Amended agenda passes.

APPROVE PREVIOUS MEETING MINUTES

Motion to approve June 12, 2023 meeting minutes as presented; Motion by Kathy Skarda; Second by Cody Knetzger; Voice Votes: all Ayes.

Motion to approve June 12, 2023 meeting minutes as presented passes.

CODE ENFORCEMENT

A Code Enforcement discussion was held regarding Brady Beyers.

Andrew Steck, Code Enforcement Officer stated we have a case against Brady Beyers who has failed to get a Reclamation Bond. He obtained a CUP #6-22 in June of 2022 for his towing business. He has a parcel out on 85 a little west of Arnegard. One of the conditions for his property was a Reclamation Bond. This was due to

be submitted to Code Enforcement by August 2022. We did work with him for a little while. His business is a busy business so we gave him some extra time.

Brady Beyers and Jordan Everett, Attorney for Brady Beyers gave the reasons for Brady Beyers not obtaining a Reclamation Bond were due to lack of time, help and previous accountant integrity.

Motion to give a 90-day extension and TABLE until the October 9, 2023 meeting; Motion by Kathy Skarda; Second by Tim Transtrom; Voice Votes: all Ayes.

UNFINISHED BUSINESS

Director Kimpel stated there is no unfinished business.

PUBLIC HEARINGS

#07-23CUP Northern Lights Lodge - #07-23 Conditional Use Permit – Northern Lights Lodge; 12637 23RD ST NW, Watford City, ND 58854; PID#65-02-00300; SW1/4SE1/4 of S01, T149N,

#07-23CUP Northern Lights Lodge REMOVED from Agenda.

#08-23CUP-Jacks RediMix - #08-23 Conditional Use Permit – Jacks RediMix; IT #2616 T150N, R98W, S34 PID #200023275, Address 12256 23rd ST NW, Watford City, ND 58854

Candy Lundgren stated this is a Conditional Use Permit for Jacks RediMix. The applicant would like to open a Mobile concrete Ready-Mix Plant to provide ready mix on an intermittent, as needed basis to the surrounding area as well as others as needed. The Comprehensive Plan Use is Industrial. Zoning is Agriculture.

Candy Lundgren read the Findings of Fact, Conditional Use Criteria, and Conditions. They are attached to the end of these minutes.

Candy Lundgren stated the staff recommends Approval for this Conditional Use Permit. Staff recommends approval to the County Commission to allow a Concrete Batch Plant to adopt the findings and conditions that's provided in the staff report.

Director Kimpel stated this Conditional Use Permit is written for intermittent use and will allow the concrete plant to go off site to do work for extended periods of time and then return to this location. **Kathy Skarda** asked if the work would be done out-of-state. **Director Kimpel** stated anywhere. **Skarda** asked if they go out and do work in the western part of the county, will they still have to get a CUP. **Director Kimpel** stated this is for in the county only. If they want to go out of the county, they will have to come in and get a permit.

Craig Hystad asked how long is it good for? **Director Kimpel** stated the decision of a time frame is up to the Board to decide. We are going to ask them to keep in contact with us if they are going to be away at a job for an extended time. Not every CUP needs to be reviewed every year. We try very hard to have these permitted for the actual use that is happening.

Andrew Steck asked do they have any immediate plans to move the plant off the site? Amanda stated they do not have any immediate plans.

Butch Fleck stated if [Planning & Zoning] do [compliance] checks every year, they should be able to keep up with any changes to this site and if anything happens.

Director Kimpel stated Code Enforcement has an app on their phone so if they go out and see anything, for example weeds, they can take a picture and send a picture and location of the weed that we are looking at, to the weed people. Then they come out and look at it and take care of it. We have worked with GIS and if there is an issue, it is sent to the correct department to take care of it.

John Irwin asked were there any complaints while RediMix was gone on the last long-term job? **Director Kimpel** stated no, we did not hear anything.

Kathy Skarda asked about air quality complaints? **Director Kimpel** stated there were none.

Director Kimpel stated we have had no complaints about this site, at all whether it was on this site at all or whether it was gone. **Andrew Steck** stated I at this site recently and it is a remarkably clean site despite being abandoned for 2 years, because they were out at a job.

Motion to Approve. #08-23CUP-Jacks RediMix - #08-23 Conditional Use Permit – Jacks RediMix; ; IT #2616 T150N, R98W, S34 PID #200023275, Address 12256 23rd ST NW, Watford City, ND 58854; Motion by Kathy Skarda: Second by John Irwin: Voice Votes All Ayes

Motion to Approve Passes;

Rough Rider Operating

#09-23CUP-Rough Rider Operating - #09-23 Conditional Use Permit – Rough Rider Operating; SE ¼ of T151N N R99W S5 13021 35th St NW, Arnegard, McKenzie County, ND. PID#660002150

Ben Palczewski from Rough Rider Operating was present.

Andrew Steck stated applicant is requesting a Conditional Use Permit to bring an existing freshwater pond that was built by previous owner into 2017, into compliance.

Andrew Steck read the Findings of Fact. They are attached to the end of these minutes.

Craig Hystad asked why it is out of compliance? **Andrew Steck** stated it was never permitted. **Kathy Skarda** asked how do you know it is out of compliance? **Steck** stated I went out and looked at it. **Director Kimpel** stated we do not know how this happened, but going forward we are correcting these.

Kathy Skarda asked if they have an approach permit? **Andrew Steck** stated yes.

Motion to Approve #09-23CUP-Rough Rider Operating - #09-23 Conditional Use Permit – Rough Rider Operating; SE ¼ of T151N N R99W S5 13021 35th St NW, Arnegard, McKenzie County, ND. PID#660002150; Motion by Craig Hvstad: Second by Tim Transtrom: Voice Votes All Aves

North Dakota State Water Commission

#10-23CUP-ND State Water Commission; T145N, R99W, S11; PID 180009400; Main Street, Grassy Butte, McKenzie County, ND

Candy Lundgren stated they want to put in a larger Riser to get more water. **Kathy Skarda** asked more water for what? **Lundgren** stated this is undersized for what they need. **Skarda** asked for which company? **Lundgren** stated Southwest Water. They are putting in a big gate in case there is an emergency.

Candy Lundgren read the Findings of Fact. They are attached to the end of these minutes.

Motion to Approve 10-23CUP-ND State Water Commission; T145N, R99W, S11; PID 180009400; Main Street, Grassy Butte, McKenzie County, ND. Motion by Cody Knetzger: Second by Kathy Skarda. Voice Votes All Aves

DISCUSSION ITEMS

A discussion was held regarding CSI wanting to have a Bond Waiver. They got a Temporary Asphalt plant the previous month.

Shane Carlberg stated WBI owns the property and has CSI hired to do the leveling out and designing out the groundwork for their new facility. The property would not be reclaimed after CSI is finished. He stated he is trying to avoid the \$9000 annual Reclamation Bond.

Kathy Skarda asked is meant by ‘it won’t be reclaimed’? **Carlberg** stated the ground would be left as is for the building. We are using it for the interim. **Candy Lundgren** stated they did write a letter saying they didn’t want it.

Craig Hvstad asked what about the landowner? **Candy Lundgren** stated WBI is the landowner. The state has their own requirements, that I know nothing about. **Butch Fleck** asked so it will be out of our hands once they are gone? **Lundgren** stated yes.

Tim Transtrom stated if they leave, it is WBI’s problem.

Director Kimpel stated the names of the interested applicants for the open Planning & Zoning Board position will be presented to the Board of County Commissioners at their next meeting. The three people interested are Roger Rink, Julie Nelson and Will Berry. **Kathy Skarda** asked did you receive anything from Jimmy Jeske? **Director Kimpel** stated no. Skarda stated I will give him a call.

Zoning Ordinance Review Project – Article V/Administration, Article III Districts, and Existing Zoning Ordinance.

A transcription of the zoning ordinance discussion can be found [here](#).

INFORMATIONAL ITEMS AND ADMINISTRATIVE PERMITS

No discussion was held regarding Administrative Permits and Informational Reports.

ADJOURNMENT

The Meeting Adjourned at 7:35 pm. Motion to adjourn by Tim Transtrom; Second by Cody Knetzger; Voice Votes: all Ayes

Motion to Adjourn passes.

The next meeting of the McKenzie County Planning and Zoning Board will be held on Tuesday, August 8, 2023 at the McKenzie County Courthouse, 201 5th Street NW, County Commission Boardroom at 5:00 PM.

McKENZIE COUNTY

Planning and Zoning Commission

#08-23CUP Jacks Redimix

Application:	June 12, 2023
Hearing Date:	July 10, 2023
Description:	IT #2616 TISON, R98W, S34 PID #200023275, Address 12256 23rd St NW Watford City, McKenzie County, ND 58854
Owner(s)/Applicant:	Jacks Redimix
Reason for Request:	Applicant would like to open a Mobile concrete Ready Mix Plant to provide ready mix on an intermittent, as needed basis to the surrounding area as well as others as needed.

Comprehensive Plan Land Use: Industrial

Zoning: Agriculture

Findings of Fact:

1. All Requirements for public notification have been made
2. Staff has not received any comments on this application.
3. Project is not in an organized township
4. Applicant has an approved approach permit #RK022213RK.
5. Applicant has owner approval for project.
6. This is a Portable Batch plant and may not be in use or on site year round..
7. Concrete Plants are a conditional use in the Agricultural District per 3.4.3 (19
8. Site has adequate space for plant and materials.
9. A Cup #03-19 was applied for and granted to Rhino Ready Mix for this site, #03-19CUP expired due to lack of activity on the site.

Conditional Use Permit Criteria::

No conditional use permit shall be recommended by the Planning Commission or approved by the County Commission unless the applicant shall have met all the following criteria:

- The establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, comfort or general welfare.

This Conditional Use will not diminish or impair the value and enjoyment of other property in the area. The location is accessed via CR 37. Dust control mitigation shall be used when necessary.

bb. The proposed conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.

The site for this conditional use has been used historically as a concrete plant.

c. The proposed conditional use shall not impede the normal orderly development of the surrounding property.

The conditional use shall not impede the normal orderly development of the surrounding property due to the historical and intermittent nature of the use.

d. Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided to accommodate the proposed conditional use.

Site has adequate utilities, an access road and all other site improvements have been made by previous companies or will be done by Jacks RediMix.

e. Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the adjoining properties and traffic congestion in the public street.

Ingress and Egress was established when the previous batch plant was located here.

f. The proposed conditional use shall conform to all applicable regulations of the district within which it is located.

The proposed temporary use is conditionally allowed in the Agriculture District. Conditions are required to be met for this CUP request to be granted.

Comprehensive Plan Consistency:
The subject land area is designated in the land use plan as Industrial .

Staff Recommendation:
Staff recommends Approval for this Conditional Use Permit.
Suggested motion: " Recommend Approval of Conditional Use Remit# 08-23CUP to the County Commission to allow a Concrete Batch Plant. Adopt the Findings and Conditions as provided in the staff report. "

Conditions:
1. The Applicant shall adhere to the noxious weed containment plan as submitted to, and approved by the County Weed Control officer.
2. The Applicant shall keep the site free of garbage, from within the site and outside sources.

3. Applicant shall follow all state federal and local laws, regulations and and conditions for the operation of the proposed facility.
4. Applicant shall obtain a building permit for all buildings.
5. The applicant shall not deposit any snow or water onto the neighboring properties and dispose of storm water onsite through an approved engineering method.
6. The applicant shall adhere to Sign Ordinance 4.2-4.2.8 and apply for a permit, post the address and emergency contact information clearly onsite.
7. This CUP shall be reviewed annually for compliance with the conditions of approval.
8. This Conditional Use Permit will remain in force, but can be placed before the County Commission for revocation if there are violations of the approved conditions.
9. Any changes in area, volume, extended use or current permitted use will require an amendment to the existing Conditional Use Permit per Section 5.8.5 of the McKenzie County Zoning Ordinance.
10. Applicant shall share all all final approvals and continuing approvals /reviews with County/ State/ Federal Agencies as they are obtained, along with any violations as it relates to this conditional use approval.
11. All security lighting shall be downward facing and shall not glare an adjacent properties.
12. The applicant shall submit a Reclamation Bond equaling 150% of an engineer's estimate to remediate/reclaim the site when the use is not planned to be utilized any further. The bond shall be in the County Planning & Zoning department within (60) days of County Commission approval and shall be kept current and up to date. No work shall commence until the bond is presented to the Planning & Zoning Department.
13. No trailers or workforce housing are allowed on this site.
14. Dust Control mitigation of access required when necessary.

McKENZIE **COUNTY**

Planning and Zoning Commission

09-23CUP Rough Rider Operating

Application:	June 07, 2023
Hearing Date:	July 10, 2023
Description:	SE 1/4 of T151N R99W S5 13021 35th St NW, Arnegard, McKenzie County, ND. PID#660002150
Owner(s)/Applicant:	Rough Rider Operating
Reason for Request:	Applicant is requesting a Conditional Use Permit to bring an existing freshwater pond that was built by a previous owner in 2017 into Compliance.

Comprehensive Plan Land Use: Agriculture
Zoning: Agriculture

Findings of Fact:
<ol style="list-style-type: none">1. All Requirements for public notification have been made. - No public comments have been received.3. Applicant is not the property owner but has the Property Owners permission to apply for the permit.4. The pond is less than 50 acre feet.5. Per the state Applicant does not need a construction permit.6. Freshwater Ponds are a conditional use in the Agriculture District.7. Pond is enclosed with a chain link fence.8. Property is not in an organized township.9. Applicant has provided a Certificate of Good Standing from the State of ND.10. Applicant has an Approved weed Permit from the McKenzie County weed Dept.11. Applicant did not build this pond, this was built in 2017 by a previous owner.12. Applicant has a Current State Water Permit.

Conditional Use Permit Criteria::
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No conditional use permit shall be recommended by the Planning Commission or approved by the County Commission unless the applicant shall have met all the following criteria:

a. The establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, comfort or general welfare.

The pond is fenced with a Chain Link fence.

b. The proposed conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.

This pond is existing and operation is intermittent, based on industry demand and will not diminish property values or enjoyment of other property in the area.

c. The proposed conditional use shall not impede the normal orderly development of the surrounding property.

The surrounding use is Agricultural so the pond will not adversely affect the surrounding area.

d. Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided to accommodate the proposed conditional use.

Utilities, road access and other necessary improvements have been made.

e. Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the adjoining properties and traffic congestion in the public street.

Applicants have an approved approach permit #OM170706KW.

f. The proposed conditional use shall conform to all applicable regulations of the district within which it is located.

Freshwater Ponds are an Conditional Use in the Agricultural district.

Comprehensive Plan Consistency:

The subject land area is designated in the land use plan as Agriculture.

Staff Recommendation:

Staff recommends **Approval** for this Conditional Use Permit.

Suggested motion: "Recommend approval of Conditional Use Permit #9-23CUP to the County Commission. Adopt the findings and conditions as provided in the staff report. ""

Conditions:

I. The applicant shall mark the site with a (4' x 8') sign visible from the road per McKenzie County Ordinance Section 4.10 with the following information. Address/project identification, emergency

contact name and phone number, this must be completed within thirty (30) days from County Commission approval.

2. The applicant shall adhere to the noxious weed containment plan as submitted to the County Weed Control Officer.

3. The applicant shall allow the local Fire Departments access to water in case of emergencies.

4. The applicant shall adhere to all Federal, State and Local Laws, Regulations, and Conditions for the operation of the proposed facility.

5. The applicant shall provide the County Planning Department with all Federal and State approvals or denials, along with any violations relating to the project for the duration of the project including ND/SWC approvals, conditions, violations and expirations.

6. Per McKenzie County Ordinance Section 4.10, line item number 2, the applicant shall fence around the holding pond with a Chain Link fence to be completed prior to reservoir storing measurable water.

7. This site through this Conditional Use Permit shall not be used as a truck depot.

8. The applicant shall maintain a site free of garbage, from within the site and from outside sources.

9. Any changes in area or volume will require an amendment to the existing Conditional Use Permit per Section 5.8.5 of the McKenzie County Zoning Ordinance.

10. Ingress/egress for the site will be completed to the satisfaction of the County Engineering Department. Ingress/egress will not impede public roadway.

11. Access on the private roadway into the site must be maintained for 911 purposes.

12. The applicant shall limit sediment runoff from the site by use of perimeter controls on down slope portions of the site (e.g. silt fence) and limit channelized erosion in ditches, swales, and adjacent natural water bodies. A Storm Water Pollution Prevention Plan (SWPPP) shall be submitted if required by State or Federal regulations. The site shall be restored and stabilized to pre-project conditions.

13. A RECLAMATION BOND EQUAL TO 150% AN ENGINEERS ESTIMATE SHALL BE PROVIDED TO THE PLANNING DEPARTMENT within sixty (60) days of Board of County Commissioners approval. The reclamation bond shall be per the standards set forth in section 2.13 of this Ordinance, unless a waiver is applied for and granted.

14. The Site shall be inspected annually to ensure compliance .

15. Applicant will provide dust control when necessary on Ingress and Egress.

16. Applicant will keep their State Water Permit current.

McKENZIE COUNTY

Planning and Zoning Commission

10-23CUP ND State Water Commission

Application:	June 14, 2023
Hearing Date:	July 10, 2023
Description:	T1 45N, R99W, S11 PID 180009400 Main St. Grassy Butte, McKenzie County, ND
Owner(s)/Applicant:	ND State Water Commission
Reason for Request:	Install new Riser/ Booster Station on existing Freshwater pipeline.

Comprehensive Plan Land Use: Rural Residential
Zoning: Agricultural

Findings of Fact:
<ol style="list-style-type: none">1. All Required public notifications have been made.2. No public comment has been received.3. Applicant is not the owner but has owner permission.4. Applicant has a Permanent Easement with the owner.5. Applicant has an Approved Approach permit AP2023-0296. Project is not in an Organized Township.7. Certificate of Good Standing is not required from a State Agency8. Per Section 2.13.1 of the Ordinance pipelines are exempt from the Bond requirement, This exemption includes the portions of the pipeline that are brought to the surface for valves maintenance or other necessary uses.

Conditional Use Permit Criteria::
No conditional use permit shall be recommended by the Planning Commission or approved by the County Commission unless the applicant shall have met all the following criteria: a. The establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, comfort or general welfare. he Riser will be designed and operated with proper control to monitor for leaks or issues, therefore he pipeline/riser will not be detrimental to McKenzie County or its residents.

b. The proposed conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.

The Riser/Booster station will have a 4-strand barbed-wire fence with a 16' access gate.

c. The proposed conditional use shall not impede the normal orderly development of the surrounding property.

This conditional use shall not impact normal and orderly development of the surrounding properties.

d. Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided to accommodate the proposed conditional use.

Adequate utilities and drainage have been provided, and an approach permit has been obtained.

e. Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the adjoining properties and traffic congestion in the public street.

Approach permit AP2023-029 has been obtained and a permanent approach will be constructed.

f. The proposed conditional use shall conform to all applicable regulations of the district within which it is located.

This use shall conform to all applicable regulations.

Comprehensive Plan Consistency:
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The subject land area is designated in the land use plan as Rural Residential.
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Staff Recommendation:

Staff recommends Approval for this Conditional Use Permit.

Suggested motion: "Staff Recommends Approval of CUP 10-23 to the County Commission. Accept the findings and conditions as provided in the Staff Report."
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Conditions:

1. The applicant shall adhere to the noxious weed containment plan as submitted to County Weed Department.
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2. The applicant shall adhere to all Federal, State and Local laws, regulations and Conditions.

3. The applicant shall maintain a site free of garbage from within the site and from outside sources during and after construction.

4. Ingress and Egress for the site will be completed to the satisfaction of the County Engineering Dept.
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5. Ingress and Egress shall not impede the public roadway.
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6. During Construction the operator of the site shall maintain dust control on all roads accessing the construction area.

7. Access to the site must be maintained for 911 purposes.

8. Site must be marked and location documented according to industry and/or state standards.

