

## Planning and Zoning Commission Minutes

April 10, 2023

Meeting was held at the McKenzie County Courthouse Commissioner 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, Lance Renville, Matt Beard, Tim Transtrom

**Members Absent:** Eva Hepper

**Staff Present:** Planning and Zoning Director Sandee Kimpel, Planning Attorney Ari Johnson, Planner Candy Lundgren, Administrative Assistant Cindy Jensen

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

### **APPROVE AGENDA**

**Kathy Skarda** stated I would like to add to Agenda Reports for the Planning and Zoning Department to Discussion Items.

**Motion to approve agenda as amended. Motion by Cody Knetzger; Second by Matt Beard; Voice Votes: all Ayes**

**Motion to approve agenda as amended passes.**

### **APPROVE PREVIOUS MEETING MINUTES**

**Motion to approve March 13, 2023 meeting minutes as presented. Motion by Kathy Skarda; Second by John Irwin; Voice Votes: all Ayes.**

**Motion to approve March 13, 2023 meeting minutes passes.**

### **CODE ENFORCEMENT**

No code enforcement business was presented at this time.

### **UNFINISHED BUSINESS**

**Director Kimpel** stated we have no unfinished business.

### **PUBLIC HEARINGS**

**#02-23CUP DC Aggregates – #02-23CUP DC Aggregates – Conditional Use Permit –W1/2 SW ¼, T150N, R96, S5. PID #690002810.**

Candy Lundgren read the Findings of Fact, Conditional Use Permit Criteria, Comprehensive Plan Consistency, Staff Recommendation and Conditional Use Permit Conditions. They are attached to the end of these minutes.

A discussion was held regarding the Conditional Use Permit Application, including road maintenance, dust control, speed limits and a Reclamation Bond.

**Butch Fleck** asked has the applicant met every condition here that we have as far as for Bond and everything? **Candy Lundgren** stated the only thing they don't have so far is the Bond. They have 60 days from approval for a bond per our Ordinance. **Fleck** asked from approval for us and then they still have 60 days? **Director Kimpel** stated from the County Commission approval.

**Matt Beard** stated I have a follow-up question for the staff. Bond is required based on engineers estimate and they have 60 days after the county commissioner approval. What do you guys do? What happens if that doesn't get done in 60 days? **Director Kimpel** stated they get reminders and can be brought before the Planning and Zoning Board for Revocation of their Conditional Use Permit. **Beard** asked it's just part of your enforcement? **Director Kimpel** stated yes.

**Motion to Approve #02-23CUP DC Aggregates – #02-23CUP DC Aggregates – Conditional Use Permit – W1/2 SW ¼, T150N, R96, S5. PID #690002810; Motion by Craig Hystad; Second by Tim Transtrom; Voice Votes: All Aye**

**Motion to Approve Passes**

## **NEW BUSINESS**

**Consideration of Planning Commission applying for an amendment to the conditions of #0021-18CUP regarding access to the property.**

A discussion was held regarding the Conditional Use Permit #0021-18. No motion was made.

## **DISCUSSION ITEMS**

### **ADMINISTRATIVE PERMITS.**

A discussion was held regarding the Administrative Permits and the Monthly Planning and Zoning Informational Reports.

## **ADJOURNMENT**

**The Meeting Adjourned at 6:30pm. Motion to adjourn by Kathy Skarda; Second by Tim Transtrom. Voice votes: all Ayes**

### **Motion to Adjourn Passes**

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

# **MCKENZIE COUNTY**

## **Planning and Zoning Commission**

### **#02-23CUP DC Aggregate, LLC**

<b>Application:</b>	March 10, 2023
<b>Hearing Date:</b>	April 10, 2023
<b>Description:</b>	W1/2 SW 1/4 T150N, R96, S5 PID # 690002810
<b>Owner(s)/Applicant:</b>	DC Aggregate, LLC
<b>Reason for Request:</b>	Application to bring a current Scoria Pit which has been in operation since 2020 into compliance.

**Comprehensive Plan Land Use: Agriculture**

**Zoning: Agriculture**

#### **Findings of Fact:**

1. The proposed use is conditionally allowed in the agricultural district.
2. All Public notifications have been made.
3. No Public comment either for or against has been received.
4. No Comment from Adjacent landowners has been received.
5. Scoria Pit Was first established in 2020
6. Scoria Pit currently covers 20 acres in T150N, R96, S5.

#### **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.**

The establishment, maintenance or operation of the conditional use shall not be detrimental to or endanger public health, safety, comfort or general welfare, as this is an existing Scoria Pit.

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

The proposal will temporarily impact the agricultural viability of the project area. However, the site will be conditioned to include reclamation at the end of mining activity. At such time, the area will be restored to its pre mining condition for agricultural use.

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

Once the scoria pit is no longer in use, the land will be remediated back to its agricultural state and will not impede the normal development of surrounding properties. Agricultural use adjacent to the project will not be impeded with conditions that require dust control onsite and along the access route to the project site

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

A storm water permit for drainage and site improvements are in progress.

**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.**

An Approach has been developed and permit #DCA230314DB has been approved.

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

The proposed conditional use is an allowed use in the agricultural district.

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

**Staff Recommendation:**  
Staff recommends **Approval** for this Conditional Use Permit.  
  
Suggested motion: "Staff recommends approval of Conditional Use Permit #02-23CUP, to bring an existing Scoria Pit into compliance. Scoria Pits are an approved use in the Agricultural Zone. Adopt the findings and conditions as provided in the staff report."

- Conditions:**
1. The applicant shall mark the site with address/project identification (4'x8' sign) visible from the road.
  2. The applicant shall maintain weed control as approved by the McKenzie County Weed Control Officer.
  3. The applicant shall adhere to all State and federal laws, regulations, and conditions for the operation of the proposed facility and the transportation of the material.
  4. Applicant shall have a 100' knock off zone on site, the knock off zone shall include a cattle guard or other approved method to remove debris from the tires of the trucks. Knock off zone design shall be approved by the Building and Planning Director prior to design.

5. All loads exiting a gravel or scoria operation area must be tarped and or otherwise covered. It is the responsibility of the applicant to insure the tarping of all loads.
6. Applicant shall post a sign at the knock off zone stating "All Loads must be Covered".
7. The applicant shall post a bond based on engineers estimate and approved by the Planning Director to reclaim the site to a natural condition. The bond amount shall be 150% of the estimate. Reclamation shall include the removal of all structures, grading of the site, top soil must be applied to a depth of at least six (6) inches on all disturbed areas and planted with native grasses as approved the Planning Director. The bond shall name the county as the beneficiary. Bond must be submitted to the County Planning and Zoning prior to operations.
8. The applicant shall provide adequate dust control for all haul roads to and within the site. Dust control requirements shall be by magnesium chloride or other approved product, all substitutions must be approved by the county Road Superintendent. Dust control must be applied a minimum of two (2) times per year, once in the month of May and again in the month of August. The applicant shall provide the Planning Director proof of application. Failure to provide dust control or proof of application may result in revocation of the permit.
9. Trucks shall adhere to any and all state and local road restrictions.
10. Trucks exiting a gravel or scoria pit shall not exceed weight standards.
11. The applicant shall maintain adequate garbage control.
12. 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 entire duration of the project.
13. All security lighting must be downward facing and shall not glare on adjacent property owners or the public travel way.
14. Trucks must obey all speed requirements as posted be federal state county or township agencies, but at no time shall speeds on gravel or dirt roads exceed 35 mph.
15. All open pit operations shall be setback a minimum of one hundred (100') feet from the ROW or road easement line or one hundred thirty three (133') feet from a section line whichever is greater, per section 2.10 of the McKenzie County Ordinance. Property line setbacks shall be twenty-five (25') feet.
16. The applicant shall shall not deposit snow or water onto neighboring properties and shall dispose of storm water onsite through an approved engineering method.
17. The conditional use permit will be reviewed annually to ensure compliance with the listed conditions.

MEETING SIGN-IN SHEET

Meeting Date: April 10, 2023

Name PLEASE PRINT NAME LEGIBLE	Phone #	Agenda Item #
Jordan Evert	701-774-0005	G(1)
Phil Schuman	1-406-671-9778	DC Agg
Steve Burian	701-740-4881	G(1)
Hond, Lauren		
Melissa Kinde		