MERCER COUNTY PLANNING COMMISSION MINUTES

The Mercer County Planning Commission met Wednesday evening February 11th, 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, Casey Voigt, Kevin Hafner, Joey Neumiller, Andy Thomas, Rick Bauman (entered late), Gerald Bieber (entered late)

Members Absent: Shane Cole

Others Present: Casey Furey, Jen Gabel, EJ Gabel, Steve Guenthner, Mark Kaffar, Jennifer Gooss, Stephanie Morales, Scott Harmstead (SRF Consulting), Mercer County States Attorney Todd Schwarz

Eslinger welcomed Andy Thomas, P & Z's new board member. Eslinger asked for any additions or corrections to tonight's agenda. Asked a second time. Motion by Voigt, seconded by Hafner, members present voted "aye", motion passed. Motion by Voigt, seconded by Bieber, to approve the minutes of January 15th, 2026. All members present voted "aye", motion passed.

New Business

Case # 5079

The purpose of this public hearing is to amend the zoning ordinance to add data centers as a conditional use in the Industrial District and update ND Century Codes in the Flood Management Chapter. Changes to the following sections are proposed:

- Chapter 1, Section VIII-Definitions: Definitions added for Data Center & Digital Asset Mining
- Chapter 3, Section IV-Industrial District: Data Center listed as a conditional use
- Chapter 7, Section 1-Statutory Authorization-Requires NDCC Chapters update

Chairman Eslinger asked what this entails. Chapter one is adding a definition for data center and digital asset mining. States Attorney Schwarz interrupted the meeting to inform the board we can't change the ordinance by resolution. States Attorney Schwarz stated it's a motion to amend the ordinance not a resolution. Renner made a motion to approve, Bieber seconded to amend Chapter 1, Section 8. Eslinger asked for any discussion. All members present voted "aye", motion passed. Eslinger stated data center will be letter P under Industrial Uses on page 3-49. Renner made motion to approve, Neumiller seconded. Eslinger asked for any additional discussion. All members present voted aye. Discussion on the proposed amendments being sent to the next Commission meeting. Attorney Furey asked if there was going to be a public comment period. She mentioned a formal process needs to happen to open the public hearing by motion. For proper procedure it should be opened for public comment but our States Attorney is present, so she doesn't want to interfere. Votes should be after public comment period. Attorney Gooss stated her concern for clarification on procedure. To modify you have to have an ordinance come to this board for public hearing and then go County Commission for two readings. Bauman stated we are amending the ordinance. States Attorney Schwarz stated P & Z can amend what we're presenting to the Commission, it takes commission to approve the ordinance. Attorney Furey stated the public notice did state the purpose of this public hearing was to amend the ordinance. Eslinger stated we are on the right track. Eslinger stated we need to open this up for public comment. Eslinger stated we have a motion and a second, is there any other comments. Attorney Furey stated we should make a motion to open it up for a public hearing. States Attorney Schwarz stated postpone the vote and open it up for a public hearing. Bauman motion to close the regular meeting and open for public hearing, Voigt seconded. Roll call vote,

all members present voted “aye”. Now open for public comment. Guenthner asked if this just a possibility to have a data center. As far as criteria for regulation where does it come from. Eslinger stated we will come up with any conditions we deem appropriate. Guenthner stated they are not poplar. They’re are noise issues. What are the cooling systems and where are they going to get the water from? Bauman stated this would be part of the conditional use permit and these would all be addressed separately. Guenthner stated you are going to have to know what to ask. Bauman stated that’s why the commission is looking at a consultant to help us build the conditions. Guenther thought that was a good idea, there is to many unknowns. Voigt stated if these industries want to be on the grid they need to supply their own power. Eslinger’s goal is to cover all the “what ifs”. We need to know what these companies are going to do for Mercer County. We need to make sure we check all the boxes. Having these public meetings are important and we need the public input. We have to move quickly but cautiously. States Attorney Schwarz stated there are state regulations. With each conditional use permit, we can look at each project, P & Z and Commission has the final say what conditions they want on the permit. We can demand bonds. Voigt asked for any other comments. Being none, Bauman moved to close the public hearing, Voigt seconded. Roll call vote, all members present voted “aye”. Returned back to regular meeting. We had a motion and a second to add Data center under Chapter 3, Section 4. Eslinger asked for any other discussion. Roll call vote, all members present voted “aye”. Motion carried.
Moving onto Chapter 7, Section 1 to update Century Code. Motion to close regular meeting and open public hearing by Neumiller, seconded by Renner, all members present voted “aye”. Eslinger asked for any comment. Being none motion by Neumiller to close public hearing, seconded by Bieber, all members present voted “aye”. Closed public hearing and returned to regular meeting. Motion by Voigt to approve Chapter 7, Section 1, seconded by Bauman. Roll call vote, all members present voted “aye”. Motion Carried. Voigt thought we should go back to Chapter 1 to open it up for public comment. Eslinger agreed. Voigt made a motion to close regular meeting and open public hearing for Chapter 1, Section 8, seconded by Hafner, all members present voted “aye”. Eslinger asked for public comment. Being none motion by Neumiller to close public hearing, seconded by Renner, all members present voted “aye”. Eslinger said we will re-vote on this. Renner made a motion to approve, Bieber seconded to amend Chapter 1, Section 8 for date center definitions. Roll call vote, all members present voted “aye”. Motion carried.

Moving onto other business. Scott Harmstead present from SRF Consulting. He has met with Bauman & Land Use Administrator. He’s going to look at what’s been done so far and hoping to get our ordinances to a point where everyone is happy. He also submitted a sperate proposal to assist with Data Center applications to put together a data center conditional use permit, they just did one in Williston for one that has not been constructed yet. With respect to the conditional use permit he recommends a Memo of Understanding. He explained the MOU and how you enter into the MOU with the applicant. You can have them pay associated costs that the burden puts on the county to review the application process. He said it’s more unique and mote time intensive applications. Renner asked if it’s for all industry or just specific to data centers. Harmstead stated its whatever agreement you want to come up with. Renner asked if we could make it all industry. Harmstead stated its case specific but can be used for any complex project. Eslinger asked about having the company pay the consulting fees. Harmstead stated the one in Williston put up escrow. It’s at their own risk, whether it be approved or denied. Discussion on the new data center going up in Williston. Eslinger asked for any other comments.

Motion to adjourn made by Neumiller, seconded by Renner. The meeting was adjourned at 7:50 pm.

APPROVED:
Jen Neumiller, Land Use Administrator

ATTEST:
Mike Eslinger, Chairman