STAFF REPORT
ZONING BOARD OF ADJUSTMENT
Thursday, January 23, 2019
9:00 a.m.
Room 105 Courthouse Annex
Cascade County Commissioners Chambers

SUP #018-2019

Subject Property Information

Name & Address of Applicant: Missouri River Trucking and Excavation
PO Box 538
Black Eagle, MT 59414

Name & Address of Owner: Linda Carlile
99 Airport Bench Rd
Great Falls, MT 59404

Geo Code: 02-2891-14-2-03-01-0000

Parcel Number: 0003795200

Existing Zoning: Rural Residential 5 (RR5) District

Legal Description: Section 14, Township 19 N, Range 2 E

Requested Action and Purpose: Operation of an Opencut Gravel Mine

Total Land Area: 40.00 Acres

Adjacent Land Uses & Zoning:
   North: Agricultural
   South: Agricultural
   West: Agricultural
   East: Agricultural, Gravel Pit

Current Land Use: Vacant pasture

Applicable Regulations: Sections 7.1.1.3 (5) and 10 of the Cascade County Zoning Regulations

General Information:

The Cascade County Zoning Board of Adjustment is in receipt of a Special Use Permit application from Missouri River Trucking and Excavation to operate an opencut mining operation on Linda Carlile’s property. The 40-acre property is located northeast of the Smith River and South of the Missouri approximately 1 and a half miles southeast of the confluence of the two rivers.
10.1 General Provisions

A special use is a use for which conformance to additional standards will be required and shall be deemed to be a permitted use in its respective district, subject to the standards and requirements set forth herein, in addition to other applicable requirements of these regulations. All such uses are hereby said to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

A special use permit may be issued only upon meeting all requirements in these regulations for a specific use which is explicitly mentioned as one of the “Uses Permitted Upon Issuance of a Special Use Permit as Provided in Section 10” within the respective zoning districts contained in Section 7 or Section 8.1.5 hereof. After the public hearing is closed, the Zoning Board of Adjustment can approve, deny, or approve with conditions the Special Use Permit. A separate Special Use Permit shall be required per each tract of land. The Special Use Permit fee shall be $450.00.

10.4 Expiration

The Zoning Board of Adjustment approval of the Special Use Permit shall be valid for only one particular use and shall expire one year after the date of approval, if construction or the use has not started. The Zoning Administrator may grant a one-time only six (6) month extension of the Zoning Board of Adjustment approval.

The Special Use Permit shall expire if the use ceases for six (6) months for any reason. Any further extension requests must be granted by the Zoning Board of Adjustment prior to the date of expiration.

10.7 Operations

Operations in connection with the Special Use permits shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

Findings of Fact:

1. The property is in the Rural Residential 5 (RR5) Zoned District. The proposed use is allowed in the RR5 District pursuant to Section 7.1.1.3 (5), which reads, “Use permitted upon issuance of a special permit… The excavation of sand and gravel.”

2. Linda Carlile is the legal owner of the property where the gravel pit would be located.

3. The property is not in violation of any Cascade County Zoning Regulations or any other County Ordinance.
4. Legal notice of the application and the public hearing was published in the *Great Falls Tribune* on January 12, 2020 and January 19, 2020. It was mailed to surrounding neighbors with certified letters on January 3, 2019. At the time of writing this report, staff has received no comments.

5. A Special Use Permit may be revoked by the Cascade County Zoning Board of Adjustment at any time a building(s) or use(s) is deemed to be in violation of the standards and zoning requirements under which the special use permit was issued. A violation of a special use permit will be handled as any other violation under Section 13 of these regulations.

6. Appeals of the Zoning Board of Adjustment decision shall follow the process outlined in Section 12 of the Cascade County Zoning Regulations.

7. 76-2-209 (2) Montana Code Annotated, states: “The complete use, development, or recovery of a mineral by an operation that mines sand and gravel or an operation that mixes concrete or batches asphalt may be reasonably conditioned or prohibited on a site that is located within a geographic area zones as residential, as defined by the board of county commissioners.”

**Findings with Respect to the Analysis Criteria**

Staff provides that the following analysis, findings and conclusion for each of the required criteria and conclusions provided under the controlling sections of the Zoning Regulations.

1. Conditions may be required that the Zoning Board of Adjustment determines if implemented, will mitigate potential conflicts in order to reach these conclusions.

2. The proposed development will not materially endanger the public health or safety.

Considerations:

a. Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersection and curb cuts.

*Applicant: Site is in a rural area where there is no public access or traffic.*

*Staff: Based on the adjacency of an existing gravel pit and generally low volume of traffic on Millegan Road, it can be reasonable inferred that traffic conditions will not be adversely impacted by this development.*
b. Provision of services and utilities including sewer, water, electrical, garbage collections, and fire protection.

   Applicant: There are no utilities at this site. All equipment is run by fuel.

   Staff: No services/utilities should be required by this operation, however utilities do exist in the area.

c. Soil erosion and sedimentation.

   Applicant: Any soil disturbance will be addressed at the time of reclamation. Soil berms will be used to keep run off contained within site.

   Staff: Soil Erosion and sedimentation will be controlled through compliance with the opencut mining permit and Montana Stormwater discharge permit.

d. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.

   Applicant: There is no water supply or well at this site.

   Staff: Staff finds it unlikely that the extraction of gravel at this site will have any impacts on water supplies. The opencut mining permit from DEQ will address this matter and staff is unaware of any complaints from nearby property owners regarding negative impacts from the existing gravel pit on the adjacent parcel.

3. The proposed development is a public necessity, or will not substantially impact the value of adjoining property.

Considerations:
   a. The relationship of the proposed use and the character of the development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

   Applicant: The only nearby activity is adjacent landowner cattle grazing and a gravel mine permitted by Shumaker Trucking.

   Staff: Based on the existing agricultural use in the area, including the existing gravel mine on the adjacent parcel, staff finds it unlikely that this proposal will have a detrimental impact on the value of adjoining property.
b. Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or county as whole, to justify it regardless of its impact on the value of adjoining property.

**Applicant: N/A**

**Staff:** Staff has not found that this proposal meets this criteria.

4. The proposed development will be in harmony with the area in which it is located.

Considerations:

a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

**Applicant: Yes. The current adjacent land activity is gravel mining.**

**Staff:** Based on the distances to surrounding residences, at the closest approximately .4 miles from the property line to the nearest residence, the next closest being .8 miles from the property line to the nearest residence, as well as the proposed site’s location on a plateau above the Smith and Missouri rivers, planning staff does not anticipate conflicts between surrounding property owners as a result of the proposed use. While the Rural Residential 5 district does not provide guidance related to gravel pits, the Agricultural District provides standards for quarries applying through the Special Use Permit process, which includes sand and gravel pits. § 7.2.4(2) of the Zoning Regulations limits operational hours from 7 am to 7 pm and requires any buildings housing power or power producing machines to be located at least two hundred (200) feet from all adjacent property or street and highway lines. Interestingly, the Flood Road Overlay District (FOD) allows sand and gravel removal as a principal use on a 40-hour pre week basis while conducted between 7 am and 5 pm but without similar provisions on power-generating equipment. The FOD is a well-established residential area home to the Woodland Estates subdivision located 3-5 miles east of this location. The proposed area of this project could best be characterized as agricultural use with sparse residences, and the project parcel is adjacent to the Agricultural Zoning District. Based on these
findings, Staff recommends conditioning the operation of this project on the standards set by the Agricultural district.

b. Consistency with the municipal and joint land use plans incorporated by the Growth Policy.

Staff has not found that this proposal would be in conflict with the municipal and joint land use plans incorporated by the Growth Policy.

5. The proposed development will be consistent with the Cascade County Growth Policy.

Considerations:

a. Consistency with the growth policy objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its location standards.

Goal 1: Sustain and strengthen the economic well-being of Cascade County’s citizens.

A. Stimulate the retention and expansion of existing businesses, new businesses, value-added businesses, wholesale and retail businesses, and industries including agriculture, mining, manufacturing/processing and forest products.

   Applicant: We currently supply sand and gravel to the Great Falls community from our Sun River gravel site. This site will expand customer base to the Ulm area.

B. Stabilize and diversify the county’s tax base by encouraging the sustainable use of its natural resources.

C. Identify and pursue primary business development that complements existing business, which is compatible with communities, and utilizes available assets. Identify and pursue targeted business development opportunities to include, but not limited to, manufacturing/heavy industry, telecommunications, and youth/social services.

D. Promote the development of cultural resources and tourism to broaden Cascade County’s economic base.

E. Foster and stimulate well-planned entrepreneurship among the county’s citizenry.
F. Promote a strong local business environment. Encourage and strengthen business support mechanisms such as chambers of commerce, development organizations and business roundtable organizations.

G. Improve local trade capture for Cascade County businesses. Promote local shopping as well as well-planned businesses and new businesses.

**Applicant:** This additional gravel operation will enable us to supply gravel to the area at a more reasonable cost to the businesses and residence.

H. Network with and support other economic development efforts in the region and statewide, in recognition of Cascade County’s interdependence with other communities and to leverage available local resources.

I. Encourage the growth of the agricultural economy.

J. Stimulate the growth of the economy by encouraging the use of alternate methods of energy production, including wind energy.

**Staff:** Staff has found that this proposal supports Goal 1 of the Growth Policy. As a locally owned business utilizing natural resources, this gravel mine specifically supports objectives A, B, C, E, and G. Staff finds it unlikely that this project will have a detrimental impact on tourism (Obj D) based on its location but may have a positive impact on Objectives F and H depending on MRTE’s level of engagement with regional businesses. The applicant has not stated an intention to use renewable energy sources (Obj J) and it is debatable if this could be deemed to be supportive of Objective I, encouraging the growth of the agricultural economy. While gravel mining is not considered traditional agricultural use, many property owners in agricultural areas choose to develop this natural resource and the generally remote locations of these properties make them ideal candidates for this type of use.

**GOAL 2: Protect and maintain Cascade County’s rural character and the community’s historic relationship with the natural resource development.**

**Objectives:**

A. Foster the continuance of agriculture and forestry in recognition of their economic contribution and the intrinsic natural beauty of grazing areas, farmlands and forests.

B. Preserve Cascade County’s scenic beauty and conserve its forests, rangelands and streams, with their abundant wildlife and good fisheries.
C. Preserve Cascade County’s open space setting by encouraging new development to locate near existing towns and rural settlements and by discouraging poorly designed, land subdivisions and commercial development.

D. Assure clean air, clean water, a healthful environment and good community appearance.

   Applicant: Our gravel operation is regulated by the DEQ air quality permitting. All equipment is operated within that permit.

E. Support the development of natural resources including but not limited to timber, mining, oil and gas production, and renewable energy production.

   Applicant: We are a [supplier] of gravel thru the mining on this site.

F. Continue to work with federal and state agencies to redevelop properties within Cascade County which are currently undergoing Superfund and Brownfields process.

   Staff: Staff finds that this proposal is in general compliance with Goal 2 of the Growth Policy. Objective E is directly supported as this is a considered a mining operation. While this proposal has the potential to remove grazing land from use, there is abundant open space in this area already and there appears to be minimal crop production, possibly due to the general hilly/rocky topography of the proposed site. As such, staff does not believe that this proposal will have a detrimental impact on objectives A, B, or C. DEQ regulations address environmental concerns (Obj D) and this is not a Superfund or Brownfields site (Obj F).

GOAL 3: Maintain Agricultural economy

A. Protect the most productive soil types.

   Applicant: We are required thru our DEQ Opencut permit to maintain stockpile of topsoil for the purpose of reclamation and eventually reseeding native grass to the area disturbed by mining.

B. Continue to protect soils against erosion.

C. Protect the floodplain from non-agricultural development.

   Applicant: Not flood plain area

D. Support the development of value-added agricultural industry in Cascade County utilizing the products from the regional area.
Staff: Staff has found that this proposal is in general compliance with Goal 3 of the Growth Policy. The Natural Resources Conservation Service web soil survey lists roughly 35% of the soil at this site to be prime farmland of statewide importance, however DEQ regulations stipulate that once a gravel mine has ceased operation topsoils must be returned and the site reclaimed (Obj A and B). Gravel mining’s relationship to agriculture has been discussed previously in this report, however it appears unlikely that this project will have a detrimental impact on this objective. The property is located well above the Smith or Missouri river floodplains (Obj C) and is not adding value to an agricultural product (Obj D).

GOAL 4: Retain the presence of the US Military in Cascade County.

Objectives:

A. Encourage the federal congressional delegation to actively support maintaining the current mission status at a minimum.

B. Promote the location of additional military missions in Cascade County.

C. Encourage the reactivation of the runway at Malmstrom Air Force Base for fixed wing operations.

D. Refer to the Joint Land Use Study for resolving conflicts and promoting mission compatible development.

Applicant: (Response to goal 4) N/A

Staff: This proposed use in this location should not have any negative impact on retaining the presence of the US military in Cascade County. It is outside of the Height Military Overlay District and approximately 8 miles from the nearest Launch Facility or Missile Alert Facility.

GOAL 5: Preserve and enhance the rural, friendly and independent lifestyle currently enjoyed by Cascade County’s citizens.

Objectives:

A. Maintain Cascade County’s citizens independent lifestyle and minimize local governmental intervention, to the extent possible, consistent with the requirements of a continually evolving economy and constantly changing population.

B. Preserve and promote Cascade County’s rich cultural heritage, rooted in natural resource development and reflected in its numerous cultural/historic sites and archaeological areas.
C. Promote fire prevention measures throughout the county, giving special emphasis to the extreme fire hazards present at the wild land/urban interface.

   Applicant: All of our equipment and vehicles are equipped with fire suppression and are inspected annually.

D. Encourage the continued development of educational programs and facilities, recreational opportunities and spaces and health services for all county residents.

   Applicant: (response to goal 5) This goal will be met and continue to enhance the rural friendly & independent life style.

   Staff: Staff has not found that this project will have a substantial impact on this Goal. The proposed use will provide a natural resource promoting independence and is in line with historic uses in the County (Objs A + B), however is unlikely to have an impact on fire prevention and the development of educational resources, recreational opportunities, or health services.

Section 10.7 Operations

Operations in connection with the Special Use permits shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

From the application information submitted, this operation could be more objectionable to nearby properties by reason of noise, fumes, vibrations or flashing lights, due to the residential Zoning of the parcel, however since most adjacent properties are used for agricultural purposes or an existing gravel mine, and residences are not in close proximity staff has not found that this project will have an adverse impact on this standard.

Motion:

The following motion is provided for the board's consideration:

A. Move the Board adopt the staff report and approve the Special Use Permit to allow the opencut mine/gravel pit on the property, subject to the following conditions:

   1. The applicant obtains approval to operate an open cut mine or gravel and sand pit from Montana Department of Environmental Quality,
2. The applicant obtains any other required county, state, or federal permits and comply with regulations associated with any other permits.

3. Hours of Operation shall be limited to 7:00 a.m. to 7:00 p.m.

4. Any building housing power or power producing machines shall be a distance of at least two hundred (200) feet from all adjacent property or street and highway lines.

Attachments:

- Special Use Permit Application, Property Location
- Copy 76-2-209 (2) Montana Code Annotated
- Applicable Zoning Regulations, highlighted

c: Glenda Horner, Missouri River Trucking and Excavation
   Mark Carlstrom, MGC Consultants Ltd
   Linda Carlile