

CASCADE COUNTY
ZONING BOARD OF ADJUSTMENT

May 28, 2020

9:00 AM

Online Zoom Video Conference Meeting

Board Members: Bill Austin, Charles Kuether, Michele Levine, Leonard Reed, and Rob Skawinski.

NOTICE: PURSUANT TO MCA 2-3-212(1), THE OFFICIAL RECORD OF THE MINUTES OF THE MEETING IS IN AUDIO FORM, LOCATED AT CASCADECOUNTYMT.GOV AND THE PLANNING OFFICE. THIS IS A WRITTEN RECORD OF THIS MEETING TO REFLECT ALL THE PROCEEDINGS OF THE BOARD. MCA 7-4-2611 (2) (B). TIMESTAMPS ARE INDICATED IN RED, WITHIN EACH AGENDA ITEM BELOW, AND WILL DIRECT YOU TO THE PRECISE LOCATION SHOULD YOU WISH TO REVIEW THE AUDIO SEGMENT.

THESE MINUTES ARE PARAPHRASED AND REFLECT THE PROCEEDINGS OF THE CASCADE COUNTY ZONING BOARD OF ADJUSTMENT AND ARE CONSIDERED A DRAFT UNTIL FORMALLY APPROVED BY THE ZONING BOARD OF ADJUSTMENT.

STAFF ATTENDEES: Anna Ehnes, Destiny Gough, Carey Ann Haight, Amber Hobbs, Sandor Hopkins, and Charity Yonker.

PUBLIC ATTENDEES: Helen Coleman, Leana Coulter, Carolyn Craven, Patricia Curney, Brett Doney, John Feather, Tammy Kantorowicz, Kathleen McMahon, Joe Murphy, Tammie Lynn Smith, LaLonnie Ward, Rhonda Wiggers, and James Young.

1. **CALL TO ORDER:** Vice-Chair Michele Levine called the meeting to order at 09:10 AM, **Audio Part 1** [00:00:00]¹

2. **ROLL CALL:**

BOARD MEMBERS PRESENT: Charles Kuether, Michele Levine, Rob Skawinski, and Leonard Reed.

BOARD MEMBERS ABSENT: Bill Austin.

Roll Call for this meeting includes not only the Board members but also the public attendees. During the roll call, there were audio issues, such as with Charles Kuether. Additionally, the Vice-Chair (Michele Levine) asks whether the public attendees could not only state their name and address, but also any type of affiliate group that they are associated with. The Chief Civil Attorney (Carey Ann

¹ Due to upload size restrictions on the county website, the audio published on the web has been broken up into four (4) segments. In order to align with the current audio published on the web, the meetings minutes timestamps correspond to a specific audio segment stated near the timestamp. To hear the official audio record please visit <http://www.cascadecountymt.gov/departments/public-works/planning/zoning-Board/2020>.

Haight) replies that the Board may have the public attendees identify themselves with any group that they are affiliated with and/or represent.

3. APPROVAL OF THE MINUTES:

A. Draft Meeting Minutes for September 17, 2019: [Audio Part 1 \[00:04:37\]](#)

1. Board Discussion & Decision

Charles Kuether: says that he perceives that there are no issues with these pending minutes.

Michele Levine: asks for a motion.

Charles Kuether: motions to approve these minutes.

Rob Skawinski: seconds the motion for approval.

All in Favor, motion carries 4-0.

B. Draft Meeting Minutes for November 18, 2019: [Audio Part 1 \[00:05:24\]](#)

1. Board Discussion & Decision

Charles Kuether: says that there is an error on page three (3), timestamp [01:04:55] that should state “to” instead of “by” the ZBOA (Zoning Board of Adjustment). He would like the minutes to correct.

Michele Levine: asks whether Charity Yonker (the Planning Director) to give her response.

Charity Yonker: replies that it should be “to the ZBOA” not “by the ZBOA.”

Charles Kuether: motions to approve these minutes with the amended corrections.

Leonard Reed: seconds the motion for approval.

All in Favor, motion carries 4-0.

C. Draft Meeting Minutes for December 5, 2019: [Audio Part 1 \[00:06:40\]](#)

1. Board Discussion & Decision

Charles Kuether: says that he finds these minutes to be fine.

Michele Levine: asks for a motion.

Charles Kuether: motions to approve these minutes.

Rob Skawinski: seconds the motion for approval.

All in Favor, motion carries 4-0.

D. Draft Meeting Minutes for January 23, 2020: [Audio Part 1 \[00:07:09\]](#)

1. Board Discussion & Decision

Charles Kuether: says that he has nothing to say about these minutes.

Michele Levine: asks for a motion.

Charles Kuether: motions to approve these minutes.

Rob Skawinski: seconds the motion for approval.

All in Favor, motion carries 4-0.

Michele Levine: asks for an update on the meeting minutes for February 13, 2020.

Charity Yonker: replies that those minutes are pending.

4. OLD BUSINESS:

A. SUP 016-2019, SilverFalls Distillery – Madison Food Park

1. Motions:

Alternative 1: “Move the Special Use Permit to allow a Distillery on Parcel 0005348300, Geocode 02-3017-34-4-02-01-0000, legally described as Section 34, Township 20 North, Range 05 East, W ½ E ½, in SE ¼ SE ¼, in E ½ NW ¼, Less Certificate of Survey 4803, Mk F **be denied** (ZBOA member proposing denial must delineate legal reason that the application be denied)”

or

Alternative 2: “Move the Board adopt the Staff Report and findings of fact and **approve** the Special Use Permit for a Distillery on Parcel 0005348300, Geocode 02-3017-34-4-02-01-0000, legally described as Section 34, Township 20 North, Range 05 East, W ½ E ½, in SE ¼ SE ¼, in E ½ NW ¼, Less Certificate of Survey 4803, Mk F subject to the following conditions:

1. The applicant obtains a Driveway Approach Permit from the Montana Department of Transportation (“MDT”) and completes a Transportation Impact Study (TIS) if required by MDT and allows the MDT to relocate the intersection if it is deemed necessary.
2. The Applicant shall comply with and obtain all necessary approvals from the Montana Department of Natural Resources and Conservation concerning the development and use of the water resources to be utilized by the proposed development.
3. The applicant obtains approval from the City-County Health Department (“CCHD”) and Montana Department of Environmental Quality (“MDEQ”) for a new public water supply/wastewater system. The Board requests the MDEQ consider requirements for the wastewater ponds to be lined. In the event, MDEQ requires periodic monitoring reports of either the public water supply or wastewater system, the Applicant is required to provide a copy of any such report(s) to the CCHD Environmental Health Division within 10 days of submitting to MDEQ.
4. The applicant obtains Montana DEQ general permit for stormwater discharges associated with construction activity and, after construction, installs required onsite detention basins for stormwater runoff as part of a stormwater pollution prevention plan.
5. The Applicant obtains any other county, state, or federal permits required by the respective agencies for the legal operation of the proposed use.

6. The applicant adheres to all relevant building code requirements established by the Department of Labor and Industry.
 7. All outdoor activities must be compliant with activities allowed in the Agricultural District without the issuance of a special use permit.
 8. All setback requirements for the A District must be followed.
 9. Outside storage must be fully screened to conceal work equipment or materials not stored inside.
 10. No structure extends into the Height Military Overlay District.
 11. Outside lighting is to be designed to avoid light pollution with the goal of being dark sky friendly or dark sky compliant if possible.
 12. Applicant shall install an onsite fire suppression system meeting Montana State Building Code requirements and obtain a letter from the Sand Coulee Volunteer Fire Department stating their belief that the onsite fire suppression system is adequate to ensure fire protection for the subject parcel.
 13. Applicant is compliant with all necessary licensing under Title 16 MCA.
 14. Landscaping and fencing is established in accordance with guidance provided by Montana Fish Wildlife and Parks.
 15. Applicant obtains Nutrient Management Plan through Department of Environmental Quality, if applicable.”
2. **Board Discussion & Action** **Audio Part 1 [00:08:05]**

Michele Levine: asks Ms. Yonker if she has any comments to start the discussion.

Charity Yonker: says that the county has received some written comments from the public after the cut-off date for both oral and written public comments. She says that these public comments are regarding the public comment analysis table. The Board may decide whether to address these public comments or do otherwise.

Michele Levine: says that Mr. Kuether has asked for an attorney’s opinion. She would like to know what the status is for this inquiry.

Carey Ann Haight: introduces herself and states that they are working on the questions that have been posed by the Board. The County Attorneys plan to have it finalized by the next Board’s public meeting.

Michele Levine: asks whether Mr. Kuether would like to restate those questions.

Charles Kuether: says that he can if the Vice-Chair deems it advantageous or not.

Michele Levine: says that she considers it beneficial to the public record.

Charles Kuether: states that there were five (5) questions. He first asks about the monitoring of wells and pondwaters. He asks whether the Board has the authority to address either of those issues or whether well water and surface water monitoring are beyond the Board's authority. The second question is concerning a traffic impact study and whether or not the Department of Transportation has decided. He asks whether the Board has the authority to address that issue or

if it is beyond the Board's authority. The third question involves employee schedules, benefits, and so forth. He again asks whether the Board has the authority to address those issues or if they are beyond the Board's authority. The fourth question is concerning access to the parcel being developed and asks whether the Board has the authority to address that issue or if it is beyond the Board's authority. The last question involves road surfacing on a private road on private property, and whether the Board has the authority to address that issue or if it is beyond the Board's authority. He also has some other questions regarding the analysis table of public comments, such as whether this table is a ZBOA document or a county document, and how are they to incorporate the Attorneys' opinions into the document.

Michele Levine: asks whether or not the legal opinion would be available in the next couple of weeks.

Carey Ann Haight: says it should be ready within the next month.

Michele Levine: expresses her concern is similar to Mr. Kuether's statement of not knowing how to proceed without the full legal opinion or without knowing the full authority that the ZBOA has.

Rob Skawinski: says that he has some questions.

Michele Levine: grants Mr. Skawinski approval to speak.

Rob Skawinski: says that they do not want nor is it their business to get involved in telling people how to build their road on their private property. The Zoning Board of Adjustment members are not engineers and design consultants. He has dissected and examined these public comments thoroughly. He finds that some of these public comments are reaching to find ways to deny this permit. He does not find that they need to request the County Attorneys to see whether they can or should be involved in road design for this permit. In the event that they get involved in the road design issues, then they must be involved in all forthcoming in road design issues for permits as they must treat all permits equally and fairly.

Charles Kuether: says that he understands Mr. Skawinski. However, he says whether or not they are mandated to exercise that authority, or they do not exercise it, their decisions are going to be challenged.

Rob Skawinski: says that regardless of whether it is or is not within their authority, they will be challenged for this permit.

Charles Kuether: agrees and says that Nevertheless if they, the Board members, wait to get the legal opinion, then they can act on that opinion and at the least be in good standing legally, when and if they are challenged.

Rob Skawinski: says that they posed these questions to attorneys three (3) months ago.

Charles Kuether: says that they posed and submitted the request around February 16, 2020. They were accepted around February 18, 2020.

Rob Skawinski: says that they are three (3) months in and the Board needs to wait at least another month to obtain the legal opinion. He says that they are putting this process on hold to get a legal opinion that will likely be challenged by another attorney in the future for this permit. In the meantime, he says that they will keep rehashing the same issues. He says that they cannot keep repeating this cycle for a decision needs to be made. Challenges will be made irrespective of the decisions being made. Overall, he says these questions posed to the attorneys are issues that the Board does not need to get into or take on as jurisdiction issues. He says the right

government departments and divisions will take care of the issues that they have jurisdiction over. For instance, the Department of Environmental Quality (DEQ) will take care of the water section of this project as it is part of their profession and jurisdiction.

Michele Levine: asks Mr. Kuether if he has any further comments.

Charles Kuether: says that it is clear where they stand at this point.

Michele Levine: asks Mr. Reed if he has any comments.

Leonard Reed: says that he agrees with Mr. Skawinski. He says that they keep reinventing the wheel.² He says that they could have these different government agencies view these different issues and give a response. He says that they need to step aside to allow these other agencies to do their job.

Michele Levine: asks all of the Board members if they have a Staff Report regarding the distillery.

Charles Kuether: replies yes, but he is unaware where he has put it.

Michele Levine: says that this Staff Report has the proposed motions in it. She says that traffic, road, and water issues are addressed within the motion.

Charles Kuether: says that he is not prepared to make a motion.

Michele Levine: understands.

Rob Skawinski: says that he would like to discuss some of the conditions just to get started.

Michele Levine: permits him to speak.

Rob Skawinski: says that they could discuss the water issues. They are concerned about the Madison Aquifer and depleting other wells. He says that he has done some research on the Madison Aquifer. He says the volume of water that flows from the rural river into the Missouri River is a hundred and fifty-six million gallons (156,000,000 GL) of water per day. This is the equivalent of more than fifty-six trillion gallons (56,000,000,000 GL) of water per year. He said the volume of water drawn from this project should not affect the aquifer. He says that he is no water expert, but the Department of Natural Resources (DNRC) will handle any potential problem with water usage. Overall, water usage is another issue he says that they do not want to get involved in.

Michele Levine: asks if Mr. Reed or Mr. Kuether has any comments.

Leonard Reed: says that he agrees with Mr. Skawinski.

Michele Levine: asks if Mr. Kuether has any comments.

Charles Kuether: says that he does not disagree with what Mr. Skawinski has stated.

Michele Levine: says that there is a proposed condition to mitigate water usage and water concerns do fit underneath their scope of jurisdiction. Moreover, Montana Fish, Wildlife & Parks, and many public citizens are concerned that the project may exceed what is allowed for exempt wells. She says that they could make the applicant obtain a water right from DNRC that would

² To "reinvent the wheel" is an idiom meaning to waste time trying to create something that someone has already made. It can also be applied to something that has already be learned. For more information please see the online Cambridge Dictionary at <https://dictionary.cambridge.org/dictionary/english/reinvent-the-wheel>.

protect senior water right holders. She asks the rest of the Board members what their thoughts on the matter are.

Charles Kuether: says he does not have a problem with the concept. However, he is unaware of whether or not they do have the authority to require the applicant to do so. He says from his understanding the applicant files a notice of completion for an exempt well. Then, it is not a necessity to obtain a water right in the case that they apply for an exempt well. He agrees with Mr. Skawinski that in the case that they start getting involved in matters such as this water usage; they may be overstepping their current boundaries of authority by getting into other departments' and/or Boards' jurisdictions for they are unaware where their authority ends presently.

Michele Levine: says that water questions could be sent to the County Attorneys' Office.

Charles Kuether: says that they originally were posing these questions to the Attorneys' office. They are sort of repeating a cycle as mentioned by Mr. Skawinski and Mr. Reed. However, he says they are doing things that they have never previously done. They do not have a previously set procedure. They are attempting to take the best approach that they are aware of and establish a procedure, to prevent things from being challenged now and in the future. In the future, they hope to do similar projects in a timely fashion with a set procedure.

Rob Skawinski: says that he finds that this may block new businesses and projects from occurring in our county, which may be what some citizens want. He says some citizens want them to keep bogging down businesses with their public comments that have to be addressed. He says some of these public comments are legitimate, while others are overreaching to find anything to stop this project. He says that it may be these citizens' right to comment in this manner, yet as a Board, they have a responsibility to all of the public to expedite these issues. He says that either need to find a legal reason to deny the permit or establish some reasonable conditions on this project and approve of this permit. Nevertheless, he says that this project must move forward one way or the other, since it is not good practice for this Board or the county and does not send a good message to the public.

Michele Levine: asks what Mr. Reed's thoughts are on the matter.

Leonard Reed: says that he is aware that some of the public understand why they must take a while to decide. Some of the public have stated to him that their Board is either being a hindrance to the community or have stated it as a means of progress in the community. In any respect, he says the Board needs to decide. He can see the Board going through with this project.

Michele Levine: says that she would feel comfortable moving forward with this project supposing that they mitigate impact to senior water rights holders, such as Giant Springs, Montana Fish, Wildlife & Parks' fisheries, and surrounding groundwater wells. She says that the data does indicate that the water usage will increase to the point where it would qualify for a water right. She suggests under condition two (2) of approval to require the applicant to obtain water rights from the DNRC. She asks whether any of the Board members would support her notion. If the applicants and the citizens challenge this request, it would go to the County Commissioners.

There is some indiscernible noise & dialog in the background.

Michele Levine: says that amending this condition may help to mitigate impacts to water in the meantime as they do not have an answer back from the County Attorneys' Office. She asks for the other Board members' opinions.

Charles Kuether: says that he is willing to go with the notion if the rest of the Board is willing as well.

Rob Skawinski: says that he will support it if it gets this Board to move forward.

Michele Levine: asks Mr. Reed's opinion.

Leonard Reed: says that he does not find it necessary, but if the Board thinks this will help them move forward, he is for it.

Michele Levine: says that this would be an amendment to condition two (2) that the applicant shall comply to obtain a water right from DNRC and the Conservation District concerning the development and use of water resources to be utilized by the proposed development.

Rob Skawinski: asks what will happen in the case that water rights are not necessary.

Michele Levine: if this occurs, the applicant will need to challenge this condition by taking it to the County Commissioners. In the case that it is going to the Commissioners and the citizens or the applicant is dissatisfied with the outcome, they can take it to a district court.

Rob Skawinski: says that he understands.

Charles Kuether: proposes changing the wording in the Vice-Chair's proposal to state that they will need to obtain a water right if those departments deem it appropriate.

Michele Levine: says regardless of the outcome it will be appealed.

Rob Skawinski: says that he is fond of Mr. Kuether's proposal as it is DNRC who decides who shall need a water permit or not.

Charles Kuether: says that he views it as the Board offering DNRC guidance and preventing the process from prolonging unnecessarily. Overall, he says they do not have any control over whether or not a person decides to appeal or challenge their final decisions.

Michele Levine: says in the case that the applicant is allowed to do an exempt well, he was asked to monitor the wells previously and he appealed the condition to the County Commissioners. She says they will not have any type of mitigation measures to protect the water supply.

There is some indiscernible noise & dialog.

Michele Levine: says that the burden is then shifted to adjacent landowners and Montana Fish, Wildlife & Parks to determine if this development impacts their water supply or not. She says that she thought it solved the issue, but the applicant disagreed.

There is some indiscernible noise & dialog in the background.

Michele Levine: says if they do not force the applicant to obtain a water right, then she would like to know if they require the applicant monitoring their wells. If the Board does not know that they can monitor wells or not, they must then wait for the County Attorneys to give a response.

Rob Skawinski: says that he is fine with the condition of how one has stated it.

Charles Kuether: asks whether Mr. Skawinski is fine with how condition two (2) of approval is originally proposed or how he has proposed to amend the condition.

Rob Skawinski: says that he would prefer to have the proposed verbiage by Mr. Kuether added to condition two (2). However, he is fine with either direction the Board decides to take.

Charles Kuether: says that three (3) of the Board members would like to have this project move forward from their Board. Still, no one wants to be blamed for a future problem or create a mistake.

Rob Skawinski: says that he understands that they all need to feel content with their decision. He would like this Board to move forward from this project, but he does not want the Board to get stuck on every little thing. He wants to protect the public's interest, but he does not want to excessively burden applicants. He says that there must be a balance. Additionally, he strongly believes that they need to let the appropriate agencies do their jobs if they have that jurisdiction over that job.

Michele Levine: says that she agrees and that water rights are in the purview of the DNRC. She does find that water rights would protect water rights holders. She would be comfortable if they require the applicant to have a water right. She says someone must make a motion and that their basic needs to be on both the Staff Report and public comments.

Charles Kuether: says that they have not gone through the Written & Verbal Public Comment Analysis Table yet. He asks if they need to go through this table and what the status is for this document. He says it is important that they know as the Vice-Chair is stating that this document is what they are basing the grounds of their proposed motion partly on.

Michele Levine: says that they should redirect these questions to the County Civil Attorney.

Charles Kuether: says that he was under the impression from their Board training that they should use this Written & Verbal Public Comment Analysis Table as the basis for making their decision. He says that they should look at this table before deciding. He does agree that they should ask the attorneys first.

Michele Levine: says that she agrees.

Rob Skawinski: advises against getting the lawyers to decide whether or not they should review a table.

There is some laughter.

Michele Levine: says that was the best practice.

Rob Skawinski: says that there are only two (2) County Civil Attorneys, which is why there has not been as much progress.

Michele Levine: says that they will review the table. She starts the discussion off on page three (3) of the Written & Verbal Public Comment Analysis Table in the Written Public Comment section, discussing Comments 1A + 1B.

Charles Kuether: says before they get started should they see what the County Civil Attorney has to say.

Michele Levine: says sure.

Carey Ann Haight: says that they should go through the proper process and go through the Written & Verbal Public Comment Analysis Table as it is a tool that is beneficial. The Board should not forget that it is just a tool along with the other information that they have received for the document is a summary that the Zoning Board of Adjustment has already reviewed. The Board is by no means bound to this document.

Charity Yonker: says that she agrees with Ms. Haight. She notifies the Board that they have received additional public comments and responses to this table. If the Board would like to view the documents, she can display it on her screen for the Board to see as well as the public.

Michele Levine: says sure.

Charles Kuether: in view of Ms. Haight's statement, they could go ahead with the motion that Michele has suggested to amend. For the Written & Verbal Public Comment Analysis is a tool.

Michele Levine: says that they could compromise where they could have the County Planning Director share her screen, they can link their concerns raised by the public comment to the existing conditions that Staff has proposed, and they can amend the conditions for approval if needed. She asks if Charity Yonker could share her screen.

Charity Yonker: says yes.

There is some indiscernible noise & dialog in the background.

Michele Levine: ask Ms. Yonker to let her know when she is ready.

Charity Yonker: says that they are ready after she adjusts it.

Charles Kuether: says that the screen is now easier to read.

Michele Levine: reads the first verbal public verbal comment by Scott Reasoner from the Written & Verbal Public Comment Analysis Table page one (1). She responds to the public comment stating that they must mitigate any potential impact. She says there are no conditions to be made or amended based on his verbal comment. She moves on to the second verbal comment, which was made by Mark Cappis. She says there are no conditions to be made or amended based on his verbal comment.

She moves on to the third verbal comment, which was made by Brett Doney. She says there are no conditions to be made or amended based on his verbal comment. She moves on to the fourth verbal comment, which was made by John Davis. She says there are no conditions to be made or amended based on his verbal comment. She moves on to the fifth comment, which was made by Charlotte Mehmke. She says there are no conditions to be made or amended based on his verbal comment.

Charles Kuether: says that Ms. Mehmke's verbal comment does not appear to be on point.

Michele Levine: says that there is nothing to mitigate from this verbal comment. She moves on to the sixth verbal comment, which was made by Kate McMahon.

Charles Kuether: says that her verbal comment is addressing the issues that the Board has already discussed.

Michele Levine: says that there is a concern regarding fire protection. She finds that this concern is addressed in condition twelve (12). She says the groundwater concern can be mitigated by them obtaining a water right. She asks the Board members for their opinions.

Audio Part 2 [00:00:00]³

Charles Kuether: says that he does not have any comments.

³ Please see footnote 1.

Rob Skawinski: says no comments from him.

Michele Levine: moves on to the seventh verbal comment, which was made by Kathrine Kotinsky.

Charles Kuether: says that there is nothing to mitigate from this verbal comment as it is related to all of the projects from Madison Food Park, instead of just the Distillery from SilverFalls Distillery.

Michele Levine: says that there is a request to look at cumulative impacts. The Chief Civil Attorney has addressed this by stating that they are required to look at the project before them.

Charity Yonker: says that is correct.

Carey Ann Haight: agrees with Ms. Yonker.

Michele Levine: says that there is nothing to mitigate from this verbal comment. She moves on to the eighth verbal comment, which was made by Carolyn Craven. She says it is regarding water use impacts and wastewater impacts. She says that those impacts can be mitigated with the conditions of approval number two (2), three (3), and four (4). She asks the Board if anyone has any further comments.

Charles Kuether: says no.

Rob Skawinski: says no.

Michele Levine: moves on to the ninth verbal comment, which was made by Linda Metzger.

Charles Kuether: says that is a personal opinion, not a concern or a constructive verbal comment.

Michele Levine: agrees.

Charles Kuether: says that he appreciates her personal opinion that “the Board is not too strict,” but her personal opinion on Brett Doney is not something that the Board can analyze.

Michele Levine: agrees. She says that there is nothing to mitigate from this verbal comment. She moves on to the tenth verbal comment, which was made by Nate Kluz. She says that there is nothing to mitigate from this verbal comment. She moves on to the written public comment, Comments 1 A+ 1B which were made by Carolyn Craven on page three (3), heading titled “Written Public Comments.” She says they are regarding water and wastewater. She says that those impacts can be mitigated with changes to the condition of approval number two (2) and addressed the conditions of approval number three (3), and four (4). She asks if there are any further thoughts.

Charles Kuether: says no.

Michele Levine: moves on to written Comments 2A + 2B, which were made by Carolyn Craven. These comments deal with water quality and quantity she says. She says that those concerns can be addressed with the conditions of approval number two (2), three (3), and four (4). She asks if anyone has any further comments from the Board. She asks if there are any further thoughts.

Charles Kuether: says no.

Michele Levine: moves on to written Comments 3A + 3B, which were made by Ronald Vihinen. She says that there is nothing to mitigate from these written comments. She moves on to written Comments 4, which was made by Nate Kluz. She says that there is nothing to mitigate from this written comment.

Charles Kuether: says written Comment 5, made by Tammie Lynn Smith, will have a similar response to Comment 4.

Michele Levine: says that there is nothing to mitigate from this written comment. She moves on to written Comment 6, which was made by Deborah Jenkins. She says this issue is addressed in the conditions of approval number one (1).

Charles Kuether: says there is and was an opportunity for people to provide written public comments if they cannot attend a public meeting to give oral public comments.

Michele Levine: moves on to written Comments 7A + 7B (which were made by Carolyn Craven) and written Comment 8 (which was made by Linda Metzger). She says that these comments are about traffic. She says that those concerns can be addressed in the conditions of approval number one (1).

Charles Kuether: says that concern was one of the concerns and questions sent to the County Attorney's office. He says that they circumstantially asked whether the Montana Department of Transportation would not like a traffic impact study, would the Board have some jurisdiction to do anything else.

Michele Levine: asks for Ms. Haight's or Ms. Yonker's response.

Carey Ann Haight: says that this issue is similar to the other issues that the Board is having with these other questions. The Board is curious about how far their authority goes in terms of applying additional conditions on state agencies that are vested with doing these specific reviews and making those specific decisions. She is inclined to find that the Board can make a recommendation for those other agencies to consider and review the Board's recommendations. However, she does not find that the Board can require these other agencies to do so.

Michele Levine: says that the Board does not have jurisdiction over the state highway.

Carey Ann Haight: says yes.

Michele Levine: says the Board has covered this traffic issue the best that they can do in the conditions of approval number one (1). She asks if the Board would like to make any type of amendment to the conditions of approval number one (1).

Rob Skawinski: says no.

Michele Levine: moves on to written Comment 10, which was made by Karen Carlson. She says that this comment is regarding traffic, wastewater usage, and participation. She says that these topics have already been discussed by the Board today and in the conditions of approval number one (1) through four (4). She asks if any of the Board members have any further comments regarding Ms. Carlson's comment.

Charles Kuether: says no.

Michele Levine: moves on to written Comment 11, which was made by Christine Ellsworth. She says that this comment is regarding made in Montana products, value-added agriculture, and there is a citation to the County Growth Policy. There are no proposed mitigation measures in this comment. She moves on to written Comment 12, which was made by Shannon Guilfoyle. She says that this comment is related to DNRC. Ms. Levine says that DNRC does not monitor exempt wells. She finds that this issue could be mitigated if they require the applicant to obtain a water right from DNRC. She asks if the Board has any further comments.

Charles Kuether: says no.

Michele Levine: moves on to written Comment 13, which was made by Brian Nielsen. She says that this comment is about water and wastewater as well as obtaining the necessary approvals.

She says this comment is addressed in the conditions of approval number one (1) through five (5). She moves on to written Comment 14, which was made by David Brooks. He is concerned about water impact and the impact on the environment, such as the impact on hatcheries and aquatic life. She says this comment is addressed in the conditions of approval number one (1) through five (5). She asks if the Board has any further comments.

Charles Kuether: says no.

Michele Levine: moves on to written Comments 15A + 15B, which were made by Carolyn Craven. She says that these comments are related to the Sand Coulee Fire Department and fire prevention measures. She says that this issue is addressed in the conditions of approval number twelve (12). She asks if the Board has any further comments. She moves on to written Comment 16, which was made by John & Erin Tingey. She says that this comment is concerning traffic impacts on US Highway 89. She says that this highway is under the state's jurisdiction and not the county's jurisdiction. She says that traffic concerns are addressed in the conditions of approval number one (1). She says that this comment is also about water quantity and quality. Those issues are addressed in conditions of approval number two (2) through five (5).

She moves on to written Comment 17, which was made by Carl Jurenka. She says that she cannot find any particular mitigation measures within this comment beyond what has already been discussed. She moves on to written Comment 18, which was made by Helen Coleman. She says that this comment is regarding employment and job opportunity, which is beyond the Board's jurisdiction. She asks if Ms. Haight or Ms. Yonker has any further comments regarding this public comment.

Carey Ann Haight: says no.

Charity Yonker: agrees with Ms. Levine that this is not one of the considerations of the SUP listed as part of the criteria or as a consideration.

Michele Levine: understands and moves on to written Comments 19A + 19B, which were made by Kathleen McMahon, about the legal notice. She asks if Ms. Haight or Ms. Yonker has any further comments regarding these public comments.

Charity Yonker: says the legal notices are always published in the local newspaper. Legal notices in the local newspapers are the predominant notices. Any notices that are published on the county website are courtesy notices to the public. The county hopes that our website will be a convenient platform for some of the local citizens.

Michele Levine: moves on to written Comments 20A + 20B, which were made by Carolyn Craven. These comments are about traffic, which has already been discussed. She moves on to written Comments 21A + 21B, which were made by Carolyn Craven. These comments are about hours of operation. She asks if the Board has any comments regarding these public comments. She says that her comment that micromanaging hours of operation is not necessary at this time to mitigate the impact within the zoning regulations. She asks the Board if they have any comments regarding her response.

Charles Kuether: says no.

Michele Levine: moves on to written Comments 22A + 22B, which were made by Carolyn Craven. These comments discuss cumulative impacts that have already been discussed, she says. The Board currently must take each project one at a time. She moves on to written Comment 23, which was made by LaLonnie Ward. This comment is about value-added agriculture. However,

the Board does not have a way to mitigate this concern. She moves on to written Comments 24A + 24B, which were made by Deborah and Mike Jenkins. These comments discuss hours of operation water, wastewater, and traffic, which she says all of these concerns have already been discussed by the Board.

She moves on to written Comment 25, which was made by Tammy Katorowicz as well as discusses water, wastewater, and traffic. Those concerns have already been discussed. Written Comment 25 also discusses emergency services. Not all of the emergency services have been addressed. However, the Board has discussed the condition of approval number five (5). She asks if the Board has any further questions or comments.

Charles Kuether: says no.

Michele Levine: moves on to written Comment 26, which was made by Linda Metzger. She says that this comment is regarding recycling solid waste. She asks if the Board has any comments on this public comment. She says that she does not find any mitigation measures that address it.

Charles Kuether: says that this concern does apply to the application. He does agree that it would be nice to have solid waste recycled. However, it is not a part of the application.

Michele Levine: moves on to written Comment 27, which was made by Nate Kluz. She says that this comment raises concerns about intoxicated drivers and biosecurity. She says that any DUI (Driving Under the Influence) would need to be addressed by law enforcement, which is beyond the Board's jurisdiction.

Charles Kuether: says no.

Michele Levine: says biosecurity is also beyond the Board's jurisdiction and regulations. She moves on to written Comment 28, which was made by Susan Kralj and is about water usage and wastewater. She says this comment is addressed in the conditions of approval number one (1) through five (5). She moves on to written Comment 29, which was made by Claire Reichert Balz and is about water metering. She says that this matter is in litigation presently. Thus, they are unaware of the present outcome of this concern.

She moves on to written Comments 30A + 30B, which were made by Carolyn Craven and are about general information. She moves on to written Comments 32A + 32B + 32C, which were made by LaLonnie and Dennis Ward. These comments are about fire protection, which is addressed in the current conditions of approval. She moves on to written Comments 33A + 33B, which was made by Kathleen McMahon and is concerning soil. She says that the issue is handled and is addressed by DEQ (the Department of Environmental Quality). She asks for the host of the conference call/video to zoom in on the table as she is unable to read the table presently. She asks if the Staff could read this table.

Charity Yonker: says that she is unable to zoom in any closer to see the text.

Rob Skawinski: asks what comment she is trying again.

Michele Levine: says that she is trying to read written Comments 34A through 35B.

Charles Kuether: says that Comment 34A is concerning fire risks and fire suppression.

Michele Levine: says she understands.

Rob Skawinski: finds that this topic has already been addressed.

Michele Levine: says that she understands. She moves on to noise, odor, fumes, and dust concerns. She asks how they shall address these concerns.

Charles Kuether: says that the comment he is reading says that the proposed location is one (1) mile from the road. He finds that the distance should help mitigate the issue.

Leonard Reed: says that if there is a problem with these concerns the DEQ would comment about these concerns.

Michele Levine: says that these concerns would need to be addressed by the conditions of approval number seven (7) through nine (9).

Rob Skawinski: says that these matters will be addressed in a moment as to how and what needs to be screened.

Michele Levine: reads the conditions of approval number fourteen (14).

Rob Skawinski: says that he is not fond of this specific condition.

Michele Levine: says that these conditions are in the existing Staff Report recommended conditions.

Rob Skawinski: understands.

Michele Levine: says if the applicant decides to do any sort of fencing it needs to be wildlife-friendly.

Rob Skawinski: asks what does wildlife-friendly specifically entail.

Michele Levine: says that the fence shall not be too high for wildlife to jump over.

Rob Skawinski: laughs and understands.

Michele Levine: says that she understands and finds that this issue is addressed in the existing conditions. Given the location of the project within the property provides a sufficient buffer zone to the surrounding uses. She asks for the other Board members' opinions.

Leonard Reed: says that is correct.

Rob Skawinski: says that he agrees.

Charles Kuether: says that is all right.

Michele Levine: moves on to written Comments 36A + 36B, which were made by Carolyn Craven and is about business operation plans. She finds that subject is beyond their purview. She asks for the other Board members' opinions.

Charles Kuether: says that it gets to the micromanaging question that was submitted to the County Attorneys' Office.

Michele Levine: moves to discuss how these comments also question emergency access and fire prevention. She says this concern falls into Mr. Skawinski's comment on private roads for ingress and egress.

Rob Skawinski: agrees.

Michele Levine: says that these comments also discuss water quality & quantity concerns and air quality concerns, which water quality and quantity have already been discussed. As for air quality concerns, she finds if there were any permits needed, the applicant would need to obtain those

necessary permits and it would be addressed in the condition for approval number five (5). She moves on to written Comments 37A + 37B, which were made by Carolyn Craven.

Sandor Hopkins: says that the Planning Department just had a power outage. He says that Charity Yonker, Leonard Reed, and Destiny Gough are no lost their connection to the meeting. He says that they will try to be reconnected. He asks if the Board would be willing to wait a moment.

Michele Levine: says that the Board will wait.

Sandor Hopkins: asks if Carey Ann Haight is still online.

Charles Kuether: says that she does not appear to be online.

Sandor Hopkins: says that he sees her.

Carey Ann Haight: says yes and that she did not lose connection as well as she is working on her laptop. However, she says that her phone and her computer are out.

Sandor Hopkins: says that they are in a separate room from the rest of the Planning Department and that they are using a laptop as well.

Charles Kuether: asks if they would like to take a break.

Michele Levine: says okay.

Sandor Hopkins: says yes.

Michele Levine: says okay.

Sandor Hopkin: apologies.

Michele Levine: says that they will take a five (5) minute break.

Break Starts at 10:17 AM

Break Ends at 10:28 AM

Michele Levine: says that they were going through the conditions when the Planning Department lost power. She asks if anyone remembers what comment that the Board is on.

Charles Kuether: says that the Board was on written Comments 37A + 37B or 38

Michele Levine: says written Comments 37A + 37B is regarding due diligence. She finds that these subject matters are addressed in the condition of approval number five (5), which requires the applicant to obtain all county state or federal permits required for legal operation.

Rob Skawinski: says that this analysis table is a part of the Board doing their due diligence.

Michele Levine: says that is a good point. She then moves to written Comment 38, which is made by Josh Wagoner. She says this comment is regarding location. She says the Board has no control over the applicant's chosen location.

Charles Kuether: says that this written comment also refers to Madison Food Park, which is irrelevant to this application.

Michele Levine: says that written Comments 38 is the last of the comments on the analysis table.

Charity Yonker: says that she will now share her screen to show the public comments.

Carey Ann Haight: asks whether those comments that the Planning Department has received before or after the deadline for all public comments related to this project.

Charity Yonker: says that these public comments came in after the deadline when the Board had entered into Board discussion. She says that one comment came in just after the deadline. She says that others have come in the night before and/or this week. She says that some of the public comments are regarding the Written & Verbal Public Comment Analysis Table.

Carey Ann Haight: says at this point she is reluctant to have the Board considering substantive comments about the project. However, she is open to feedback about the Written & Verbal Public Comment Analysis Table.

Charles Kuether: says that he is open to comments about the Written & Verbal Public Comment Analysis Table, itself. He agrees with Carey Ann Haight that they should not be considering comments about the project that came past the due date.

Michele Levine: agrees as the public hearing was closed.

Charity Yonker: says that she is downloading the comments.

Michele Levine: understands.

Charity Yonker: says, "not this one" regarding searching for the public comments. Later on, she says that the comment on the screen is written Comment 40 from Carolyn Craven on May 19, 2020. She says that written Comment 39 came after the due date and does not pertain to the Written & Verbal Public Comment Analysis Table.

Charles Kuether: asks how Michele Levine would like to address these public comments.

Michele Levine: says that this written Comment 40 is regarding the deliberations. She says that the Board can consider for future references and will be duly noted. She asks if there is any further comment.

Charles Kuether: says no.

Michele Levine: asks if Mr. Skawinski or Mr. Reed have any further comments.

Leonard Reed: says that he does not have any further comments other than what has already been stated.

Michele Levine: understands.

Rob Skawinski: says that he appreciates the comment. He says the table is merely a tool to analyze comments. He adds that this tool that is used to help them is now being scrutinized.

Michele Levine: says that she found the Written & Verbal Public Comment Analysis Table to be a useful tool. She thanks the staff for preparing the public comment. She moves the Board to Board Discussion & Action.

Charity Yonker: says that there are some more public comments on her computer to share on-screen. She displays written Comment 41 A and says when the Board is ready, she will display Comment 41B.

Michele Levine: understands.

Carey Ann Haight: asks whether these comments are about the Staff Report and the application or if it is about the table.

Charity Yonker: says that these comments are about the table, and it is the writer's analysis of their public comment.

Michele Levine: says that they have reviewed this public comment that the writer is discussing. The writer's analysis seems to be questioning the sufficiency of the Staff Report and what data was required, regarding utility easements and other easements. She says if Staff could address what the applications for their office typically require regarding easements and utilities. She says that it seems to her that the writer is treating this SUP as a subdivision application. However, this Special Use Project is not a subdivision.

Charity Yonker: agrees and asks if Mr. Hopkins would like to add anything else.

Sandor Hopkins: agrees. He says if there are easements the Planning Department would like to see them.

Michele Levine: asks if the Zoning Regulations require to be submitted on a map to be submitted with their application.

Charity Yonker: says that it is a part of the site plan.

Sandor Hopkins: says yes, if they exist.

Charity Yonker: says if they exist, the easements would be incorporated into the site plan that was submitted.

Michele Levine: understands. She says that the Staff deemed the application to be sufficient with regards to easements and utilities displayed on their site plan.

Charity Yonker: says yes.

Michele Levine: understands and moves on to say that she recalls the applicant discussing test well data. She asks if that is anything that the Staff has received.

Sandor Hopkins: says no.

Michele Levine: understands and asks if there are any other comments on this written Comment 42 by Kate McMahon.

Charles Kuether: says that he finds that it is a nice adjunct to the Staff's recommendations. Additionally, he finds that it is a good tool for the Staff to use and the Board to use to better do their jobs.

Michele Levine: understands and says that if the Board finds that the application themselves are not complete this situation may be something to look at in terms of what the Zoning Regulations require. She is overall this situation is beyond what the Board can do today.

Charity Yonker: says in the Zoning Regulations §8.5 Site Plan Criteria list the information that has to be listed on the site plan.

Michele Levine: understands and moves on to written Comment 43. She says that this comment is duly noted and is listed in the Zoning Regulations §10.9 Zoning Board of Adjustment Review. She asks if the Board has any further comment.

Charles Kuether: says no.

Michele Levine: asks Ms. Yonker if there are any further public comments.

Charity Yonker: says yes and clarifies that the next comment uses the word *staff* as if the Planning Department is the one who is preparing this document. On the contrary, this document was not prepared by the Planning Department.

Michele Levine: understands and says that she sees the regulations regarding health or safety. Nevertheless, the ZBOA does not have jurisdiction over a state highway. She says that they can ask the department in charge of the highway to look into this situation. However, they cannot require the department to do a traffic impact study or a right-of-way permit. She asks if the Board has any other questions or comments.

Rob Skawinski: says no.

Michele Levine: moves to the next comment. She asks if Ms. Yonker could address whether subdivision regulations or any type of regulations contain any design standards for surfacing or subgrade. She says that it is her understanding that there is not anything in the Zoning Regulations regarding these issues, and that they are only found within the Subdivision Regulations.

Charity Yonker: says yes, there are no standards for road designs in the Zoning Regulations. They are only listed in the Subdivision Regulations.

Michele Levine: says if the public desires to have this changed, they must discuss this matter with the Commissioners to propose amendments to the Zoning Regulations, which is beyond the Board's jurisdiction. She goes on to say that Mr. Skawinski's comment on the lack of jurisdiction regarding private roads is applicable. She asks if the Board has any further comments.

Rob Skawinski: says no.

Charles Kuether: says no.

Michele Levine: understands and moves on to the next comment. She says this comment says that Building Codes do not address fire suppression.⁴ She says if people have an issue with the inadequacy of the Building Codes, they must take their concerns to the Building Codes Program, which is a part of the Commercial Measurements Bureau within the Montana Department of Labor & Industry's Business Standards Division. She says that Building Codes standards are beyond the ZBOA's jurisdiction. She goes on to say that fire protection has been addressed in the condition of approval number twelve (12). She says that she is unaware if they can do more than what is recommended. She asks whether the Board has any other questions or comments.

Charles Kuether: says no.

Rob Skawinski: says no.

Michele Levine: moves to the next comment.

Rob Skawinski: says, "Every single one."

Michele Levine: says this comment is an analysis of the requirements for DEQ, such as wastewater and source water protection. She says that water concerns are outside of the Board's jurisdiction. She says if DEQ's regulations are inadequate that will need to be taken up with DEQ. She says that the Board does have mitigation matters to require the applicant to obtain permits from DEQ, included in the conditions of approval number three (3), four (4), and five (5). She asks whether the Board has any other questions or comments.

⁴ Montana has adopted the International Fire Codes to be used alongside Montana state Building Codes, for more information please see ARM 23.12.601 on <http://www.mtrules.org/gateway/RuleNo.asp?RN=23.12.601>.

Charles Kuether: says no and agrees with Ms. Levine.

Michele Levine: says if the public would like further details and specifications the public could ask the Commissioners to put those requirements in the Zoning Regulations. Otherwise, the Board can ask the applicant to obtain the necessary permits and requirements from DEQ. She asks whether the Board has any other questions or comments.

Charles Kuether: says no.

Michele Levine: says the next comment is regarding their discussion on water quantity if DNRC does not monitor exempt wells.

Charles Kuether: says that this comment corrects the Board's statement of permits versus notices of completion.

Michele Levine: says correct. She says that she is in favor of this proposed condition for a motion of approval that the applicant shall be required to place meters on wells, submit quarterly water reports to the Planning Department, and obtain water rights if usage exceeds exempt wells levels provided by DNRC. She says these conditions should address the public's water concerns. She says that she recognizes that this topic is currently in litigation and if they accept this condition will probably still be in litigation. Nevertheless, she says if they do not impose such a condition, she finds that they will not meet the requirements of the Zoning Regulations.

Charles Kuether: says that he is fond of the idea. Yet, he is unaware of how the Planning Department perceives being the depository for these water monitoring reports.

Michele Levine: says that the Commissioners have suggested sending these reports to the City-County Health Department, instead of the Planning Department. She asks for the Planning staff's opinion.

Charity Yonker: says that the Planning Department does not monitor water, wastewater nor stormwater as it is not their purview. She says that the City-County Health Department concerns themselves with water matters.

Michele Levine: understands.

Charity Yonker: says that the City-County Health Department (CCHD) has the understanding and background to handle such reports.

Michele Levine: understands.

Charles Kuether: asks if those reports will be public record. He says that his understanding is that these types of enforcements are the result of people complaining. He would like to ensure that there is a way that the public will have some access to view these reports.

Carey Ann Haight: says yes, these reports would be public documents.

Charles Kuether: thanks to her.

Michele Levine: asks if there is support for adding this condition that requires the applicant to place meters on their wells as well as to submit quarterly reports to CCHD. Likewise, to require the applicant to obtain water rights if the usage exceeds the exempt well levels provided by DNRC.

Charles Kuether: says that he is in favor of the idea.

Michele Levine: says okay.

Rob Skawinski: says that they discussed this condition earlier.

Michele Levine: asks for him to repeat himself.

Rob Skawinski: says that they tried this proposed condition already.

Charles Kuether: says yes.

Michele Levine: says that her condition was for requiring the applicant to obtain water rights. She says that they have previously tried to impose this condition with the reports being sent to the Planning Department instead of CCHD. She says that the County Commissioners stated that it should go to CCHD instead. She says that she finds that the Commissioners pulled this proposed condition. Later on, the SUP conditions went to court. She asks for legal clarity from the county.

Carey Ann Haight: says that is how she recalls the status of this particular condition of approval.

Michele Levine: understands and moves to try to amend this condition of approval.

Charles Kuether: asks for Mr. Skawinski's opinion.

Rob Skawinski: says that he is fine with the condition.

Michele Levine: understands and amends the condition of approval number sixteen (16) to state that the quarterly reports be sent to the CCHD instead of the Planning Department. She says that the Board can keep all of the rest of the conditions of approval as is in the Staff Report.

Charles Kuether: says that Mr. Skawinski has a question regarding the condition of approval number nine (9).

Rob Skawinski: says that he has a couple of questions regarding some of the conditions of approval, such as the condition of approval number seven (7). The condition of approval number seven (7) states: "All outdoor activities must be compliant with activities allowed in the Agricultural District without the issuance of a special use permit." He says that the Board needs to have their conditions of approval be clear and precise. He also finds that this condition is unnecessary.

Michele Levine: understands and asks if the Planning staff has an opinion.

Charity Yonker: says, "Not at this time."

Michele Levine: understands and tells Mr. Skawinski that she finds that this condition would exist outside of this SUP as it may already be stated in the Cascade County Zoning Regulations. She says that she is fine with removing this proposed condition.

Charles Kuether: agrees.

Rob Skawinski: says since they agree they should remove it.

Michele Levine: says okay and asks the Board how they would like to conduct these proposed changes.

Rob Skawinski: says that they can make a motion in the end that encompasses these proposed changes.

Michele Levine: agrees.

Rob Skawinski: asks how the Board finds to perceive the condition of approval number eight (8). The condition of approval number eight (8) states: "All setback requirements for the A District must be followed." He asks for the Planning Staff to elaborate on this condition.

Sandor Hopkins: says the staff is codifying what is already in the regulations.

Rob Skawinski: asks if they need the redundancy in the condition as it appears that “the more conditions the better” situation. He says the Board should keep the conditions minimal.

Michele Levine: says that the applicant representatives are present. She says that they are sophisticated and savvy. She says that they are aware of the conditions that follow. She finds that this condition can be removed as well. Nevertheless, the applicant still needs to follow the Zoning Regulations.

Rob Skawinski: moves to the condition of approval number nine (9). He says that this condition is a bit cumbersome and is in a grey area as it is lacking a clear and precise definition(s), such as whether unloading a truck outside is violating this condition or not. He gives further examples of how this condition is in a grey area.

Michele Levine: understands.

Rob Skawinski: says that he is not fond of this condition as well.

Michele Levine: views that this condition comes directly from the application. She asks whether the staff would like to clarify or not.

Sandor Hopkins: says that he remarks that many of the conditions are based on the modified conditions derived from the Commissioners’ public hearing meeting on Big Sky Cheese, after their appeal. He says that they had had issues in the past from screening.

Michele Levine: asks if Mr. Reed or Mr. Kuether have any comments.

Charles Kuether: suggest taking out the word “fully” in the condition and leave the rest unchanged.

Michele Levine: ask for Mr. Reed’s opinion.

Leonard Reed: agrees.

Michele Levine: asks for Mr. Skawinski’s opinion.

Rob Skawinski: agrees.

Michele Levine: says that condition of approval number nine (9) will be amended from this, “[o]utside storage must be *fully* screened to conceal work equipment or materials not stored inside,” to “[o]utside storage must be screened to conceal work equipment or materials not stored inside.”

Charles Kuether: says this will be beneficial if they have a pole barn that has an open side.

Michele Levine: says okay and states that the conditions of approval number seven (7) & eight (8) have amended number nine (9).

Charles Kuether: asks if MR. Skawinski is also discussing the condition of approval number fourteen (14). The condition of approval number fourteen (14) states: "Landscaping and fencing is established in accordance with guidance provided by Montana Fish Wildlife and Parks."⁵

Rob Skawinski: says yes as he does not understand why they need Montana Fish, Wildlife, and Parks to be the guide for landscaping and fencing. He finds that it may be a never-ending design process to obtain approval.

Michele Levine: disagrees and says that she finds that is this condition of approval will be easy to comply with. She finds that many subdivisions and businesses have to comply with this condition. Otherwise, she says people will build fences that are cumbersome to wildlife.

Rob Skawinski: [inaudible]

Charity Yonker: request for Ms. Haight.

Rob Skawinski: tells Ms. Yonker to proceed.

Charity Yonker: invites Ms. Haight to interject her as needed and proceeds to the Board to pinpoint the criteria that this item falls under and whether a condition is reasonably necessary to put a condition on it.

Rob Skawinski: agrees and gives an example of how building a wildlife-friendly fence should be a decision made by the applicant, rather than the Board.

Charles Kuether: says in agreement with Mr. Skawinski's statement that this parcel of land is large, and the applicant is building on a small portion of the parcel. He says that is not an impossible feat for wildlife to go around the developed portion of the property. Likewise, animals tend to stay away from any noise and developed areas. In short, he does not find it to be an issue.

Michele Levine: says that they need to comply with the Growth Policy and follow Growth Policy Goal B. She says that Montana Fish Wildlife and Parks have identified this area as important to wildlife habitat. She finds this mitigation measure to be consistent with Goal B from the Growth Policy. Moreover, she finds this condition to be a minimal requirement and can be easily implemented.

Charity Yonker: says that this condition falls under the SUP Criteria in the Zoning Regulations § 10.6.5 A.

Michele Levine: finds that they have a basis in law and fact for this condition of approval. She thinks that Montana Fish Wildlife and Parks works with other landowners to have wildlife-friendly fencing.

Charles Kuether: moves on to discuss the nutrient management plan and whether it is appropriate to have the condition of approval number fifteen (15). The condition of approval

⁵ For information on what is and what isn't Wildlife friendly fencing and landscaping please visit [file:///C:/Users/dgough/Downloads/Wildlife%20Friendly%20Fences%20-%202012%20\(2\).pdf](file:///C:/Users/dgough/Downloads/Wildlife%20Friendly%20Fences%20-%202012%20(2).pdf)

number fifteen (15) states: “Applicant obtains Nutrient Management Plan through Department of Environmental Quality, if applicable.”

Michele Levine: asks if staff would like to clarify.

Sandor Hopkins: says the Nutrient Management Plan is derived from the public’s concern regarding the reapplication of wastewater. He says that it is regulated by DEQ. DEQ also has a robust program for Nutrient Management for wastewater.

Charles Kuether: asks with regards to the fact that the Board does not issue a permit until the applicant has fulfilled their requirements, whether there is a way to further clarify this condition as it is only required if it is applicable.

Sandor Hopkins: says that he is unaware of what the Board is thinking concerning this condition.

Charles Kuether: says that it is hard to get a straight answer. He would like there to be more clarity and forthrightness.

Sandor Hopkins: understands and says that it could be argued that it falls under the condition of approval number three (3) and five (5). He says that the condition of approval number fifteen (15) was made to further clarify.

Charles Kuether: asks whether there is a way to avoid this obstacle of indirectness for the applicant. Alternatively, he asks whether the Planning Department is active enough to call DEQ to prevent the applicant from wasting time & energy and not making any substantial progress.

Sandor Hopkins: says that is a good question.

Charity Yonker: says ultimately the burden will be on the applicant to provide this information to the Planning Department.

Charles Kuether: understands and says that nevertheless, one cannot drag a state agency someplace they do not wish to go if one is the applicant. He says if that government agency does not wish to write a letter in response to whether they need to or not do something. Then, the applicant is put in a difficult position.

Carey Ann Haight: says that in fairness, the County looks at the applicant’s efforts to get a response. She says if the applicant is not making any efforts to try to fulfill their conditions of approval and they do not attempt to get approval from the state is a different situation. On the other hand, if the applicant is actively trying to fulfill their conditions of approval is trying to get ahold of the state but the state fails to give a prompt response, the County recognizes the applicant’s attempts and will extend grace to the applicant.

Charles Kuether: asks whether or not this condition of approval would be an obstacle for the applicant.

Carey Ann Haight: says that she does not find that this condition of approval will be an obstacle for the applicant in terms of the applicant’s efforts to obtain the necessary permits and plans. It is, however, a matter of showing that the applicant must do. They must show that they have

either reached out to the other entities and that they have not received an answer from these other entities or have not attempted at all to contact these other entities.

Charles Kuether: thanks her for her input.

Michele Levine: moves the Board to make a motion.

Charles Kuether: says if the Vice-Chair helps with the wording of the condition of approval number sixteen (16), he would be willing to make a motion.

Michele Levine: agrees and asks if Mr. Kuether will start the motion. Then, she asks him if he could include in the motion that their findings are from the Staff Report, public comment, the additional information that they have received from the applicant, and a review of the applicable standards.

Charles Kuether: agrees.

There is some laughter.

Charity Yonker: says that they still have some more public comments. She would appreciate it if the Board viewed the rest of the public comments before making a motion.

Michel Levine: understands.

Charity Yonker: states that she is showing the Board written Comments 42A + 42B written by Carolyn Craven.

Leonard Reed: asks if someone could summarize these comments.

Michele Levine: says in response to these public comments, she has reviewed all of the public comments. She recognizes that it is a summary, with that being said the Board may go to the original comment. Likewise, the Board can also provide their own summaries and interpretation of that original public comment.

Charity Yonker: states that she is showing the Board written Comment 42C written by Carolyn Craven.

Michele Levine: says that she finds that they have mitigation measures to address the concerns raise by Montana Fish Wildlife and Parks regarding impacts to the Madison Aquifer, Giant Springs trout hatchery, Giant Springs state park, and public & private water supplies.

Charity Yonker: asks if she can scroll down the page on her screen.

Michele Levine: says yes and says that regarding water quality concerns. She finds that the Board has already been addressed by requiring all of the necessary water quality permits from DEQ. Notwithstanding, if the public wishes the Zoning Board of Adjustment have their own separate water quality standards. Those proposed water quality standards would have to be added to the Zoning Regulations, which would have to be decided upon by the County Commissioners. She moves on to the next comment, which is about traffic impacts. She says that the Zoning Board of Adjustment does not have jurisdiction over any state highway. Nonetheless, they do have a

condition of approval number one (1), which states if they are required by MDT to complete a traffic impact study and a driveway approach permit, the applicant must do so.

She goes on to say that she has read the public comment regarding cumulative impact. She finds that they have taken cumulative impact into account at least concerning water. She says that they have also already discussed private roads and their challenges. They have discussed water quality and quantity. They have also discussed the issues with the Sand Coulee Rural Fire Department. She finds that they have now discussed all of the public comments that they have received. She would like to confirm her findings with the Planning Director.

Charity Yonker: says that the Board stopped at Kate McMahon's summary.

Michele Levine: says that the Board has already addressed conditions of approval number nine (9). She asks the county staff to please address the comment 10A regarding whether or not they have to guarantee access to the site. She says that this is a subdivision requirement, and wonders if this subdivision requirement is also listed in the Zoning Regulations as she does not recall seeing it listed in the Zoning Regulations.

Charity Yonker: *[inaudible]*

Sandor Hopkins: asks her to repeat herself.

Charity Yonker: *[inaudible]*

Sandor Hopkins: agrees.

Charity Yonker: finds that the only requirement in the Zoning Regulation related to this issue is that the Planning Department does consider if it has legal and physical access to the property.⁶

Michele Levine: she finds that staff has reviewed this criterion and found it to be satisfactory.

Charity Yonker: says yes.

Michele Levine: understands and asks if anyone else has anything else to add. She moves on to Comment 10B, which is about underground utilities. She asks if the Board has any comments.

Charles Keuther: says no.

Robb Skawinski: says that he finds the comment to be irrelevant.

Michele Levine: says okay and asks if the rest of the Board has anything else to say.

Charles Kuether: says no.

Michele Levine: asks if the staff has anything to say.

Charity Yonker: says no.

⁶ For more information please see Cascade County Zoning Regulations §10.

Michele Levine: asks for any other comments. Then, she moves on to Comment 10C, which she says is about secondary emergency access.

Rob Skawinski: says that he does not find it necessary.

Michele Levine: asks the rest of the Board.

Leonard Reed: agrees with Mr. Skawinski.

Charles Kuether: agrees with Mr. Skawinski and Mr. Reed.

Michele Levine: asks if the staff have any questions or comments.

Charity Yonker: says that she has nothing to add.

Michele Levine: says that they have made a finding that they do not believe it to be necessary. She moves on to the next Comment 11.

Rob Skawinski: says that he is unsure of what the commenter is asking.

Michele Levine: perceives the commenter is asking the applicant to follow through on what they stated that they would do in their application.

Rob Skawinski: understands.

Michele Levine: says that it appears that the commenter is asking the Board to add a finding to the Findings of a Fact that the Board and the public relied on the information in the application to assess adverse impacts and determine mitigation measures.

Rob Skawinski: finds that the Board has already established this finding.

Michele Levine: agrees and asks if the rest of the Board has any further comments.

Charles Keuther: agrees.

Michele Levine: says okay and that the Board will incorporate this finding into the Findings of a Fact. She asks for the county staff to make a note of this change.

Charity Yonker: says that it has been noted.

Michele Levine: says okay and asks if the Board has any more public comments to review.

Charity Yonker: says that is the final comment.

Michele Levine: asks if she may call for a motion.

Charity Yonker: asks Carey Ann Haight.

Carey Ann Haight: says yes.

Michele Levine: asks if Mr. Kuether could make a motion.

Charles Keuther: says, "We [the Zoning Board of Adjustment] is making a finding that we [the Zoning Board of Adjustment] relied on the information in the SUP application when considering that application that we [the Zoning Board of Adjustment] have reviewed hundreds of pages of

public comments, and we [the Zoning Board of Adjustment] are making findings based on those comments as well as the comments for the public hearing. We [the Zoning Board of Adjustment] have reviewed the staff's summary and the comments to the staff's summary as well as the analysis of the applicable standards as well as any amendments, findings associated with that analysis for standards. I move we [the Zoning Board of Adjustment] incorporate the staff's Findings of Fact as well as those established by the Board during these public meeting discussions including those today, and that what we [the Zoning Board of Adjustment] are doing is consistent with the Cascade County Zoning Regulations and the Cascade County Growth Policy.

With that in mind, I move that the Board adopt the Staff Report and Findings of a Fact and **approve** this Special Use Permit [016-2019] and approve the Special Use Permit for a Distillery on Parcel: 0005348300, Geocode: 02-3017-34-4-02-01-0000, legally described as Section 34, Township 20 North, Range 05 East, W ½ E ½, in SE ¼ SE ¼, in E ½ NW ¼, Less Certificate of Survey 4803, Mk F subject to the following conditions—and in case I misspoke, I intended that to read as it's typed in the Staff Report on pg. 27. The conditions would read:

1. The applicant obtains a Driveway Approach Permit from the Montana Department of Transportation ("MDT") and completes a Transportation Impact Study (TIS) if required by the Department and allows the Department to relocate the intersection if it is deemed necessary.
2. The applicant shall comply with and obtain all necessary approvals from the Montana Department of Natural Resources and Conservation concerning the development and use of the water resources to be utilized by the proposed development, including monitoring.
3. The applicant obtains approval from the City-County Health Department ("CCHD") and the Montana Department of Environmental Quality ("MDEQ") for a new public water supply/waste system—wastewater system. The Board requests the MDEQ consider requirements for the wastewater ponds to be lined. In the event, MDEQ requires periodic monitoring reports of either the public water supply or wastewater system, the applicant is required to provide a copy of any such report(s) to the CCHD Environmental Health Division within 10 days of submitting to MDEQ.
4. The applicant obtains Montana DEQ general permit for stormwater discharges associated with construction activity and, after construction, installs required onsite detention basins for stormwater runoff as part of a stormwater pollution prevention plan.
5. The applicant obtains any other state, county, or federal permits required by the respective agencies for the legal operation of the proposed use.
6. The applicant adheres to all relevant building code requirements established by the Department of Labor and Industry for the State of Montana.
7. Outside storage must be screened to conceal work equipment or materials not stored inside.
8. No structure extends into the Height Military Overlay District.
9. Outside lighting is to be designed to avoid light pollution with the goal of being dark sky friendly or dark sky compliant if possible.
10. The applicant shall install an onsite fire suppression system meeting Montana State Building Code requirements and obtain a letter from the Sand Coulee Volunteer Fire Department

stating their belief that the onsite fire suppression system is adequate to ensure fire protection for the subject parcel.

11. The applicant is compliant with all necessary licensing under Title 16 MCA.
12. Landscaping and fencing is established in accordance with the guidance provided by Montana Fish Wildlife and Parks.
13. The applicant obtains Nutrient Management Plan through the Department of Environmental Quality, if applicable.”

“And I think fourteen (14) Michele you are going to help me with the language on that one.”

Michele Levine: understands and says:

14. “The applicant shall be required to place meters on wells and submit quarterly reports to the City-County Health Department and obtain water rights if usage exceeds the exempt well levels by DNRC.”

Charles Kuether: thanks her.

Michele Levine: calls for a second.

Rob Skawinski: seconds the motion.

Michele Levine: calls for a vote.

All in Favor, Motion carries 4-0.

Michele Levine: asks if there is any further discussion.

Charles Keuther: says no.

Michele Levine: says that the agenda item “Old Business” is finished. She asks if the Board would like to take a break.

Charles Kuether: says that he is fine with either decision.

Michele Levine: asks for the County staff’s input.

Charity Yonker: says that they could take a five (5) minute break.

Michele Levine: says that they will take a five (5) minute break and then move to the next agenda items.

Break Starts at 11:27 AM

Break Ends at 11:37 AM

Michele Levine: moves to the agenda item number five (5) “New Business” item SUP 002-2020, Outfitter Guide Facility.

Carey Ann Haight: says that before the Board moves on, she would appreciate if the Board went back to have public comment on the motion that was made.

Michele Levine: says that she thought that they took public comments regarding other agenda items at the end of the meeting. Additionally, she thought that the public comment hearing portion was closed on the distillery.

Carey Ann Haight: says that it is closed on the distillery, but it is not closed concerning comments on the new motion made itself.

Michele Levine: understands.

Carey Ann Haight: says that the public comments would have to be limited to just comments on the motion. She recognizes that the Board has already seconded the motion, however to the extent that any comments on the motion weigh or impact on the Board's findings. Then, that can be addressed at that time.

Michele Levine: clarifies that the Board did adopt the motion.

Carey Ann Haight: understands still the Board has to go back to give that public comment to the extent that the Board feels public comment on the motion changes the motion, they will address it at that time.

Michele Levine: understands.

Carey Ann Haight: says okay.

Michele Levine: moves the Board back to the agenda item "Old Business," SUP 016-2019, SilverFalls Distillery – Madison Food Park to open up a public hearing only on the motion itself.

3. **Public Hearing Opens at 11:40 AM, [Audio Part 3 \[00:25:02\]](#)**

Carey Ann Haight: says that she is unaware if people have been unmuted.

Destiny Gough: says that the Planning staff is trying to get the public to unmute themselves to speak. However, she says that it appears that people are not responding.

Charity Yonker: says that the public should be able to unmute themselves.

Michele Levine: understands.

Carey Ann Haight: says, "and I..."

Michele Levine: says the Board has made three (3) calls for public comment. She calls for the last call for public comment.

James Young at 925 Ave. E NW, Great Falls, MT 59404-1741: greets the Board.

Michele Levine: greets him back.

James Young: asks if they are calling for public comment on SUP 002-2020, Outfitter Guide Facility from Patricia Curney.

Rob Skawinski: says no.

James Young: asks if they are calling for public comment on SUP 002-2020, Outfitter Guide Facility from Patricia Curney presently.

Michele Levine: says no.

[sneeze]

Sandor Hopkins: says that it is the next item on the agenda.

James Young: understands.

Michele Levine: closes the public hearing and moves the Board to "New Business."

Public Hearing closes at 11:42 AM

5. NEW BUSINESS:

A. SUP 002-2020, Outfitter Guide Facility – Patricia Curney

1. Anna Ehnes: presents the Staff Report. [Audio Part 3 \[00:26:58\]](#)

2. Motions:

Alternative 1: “Move for the Special Use Permit to allow an Outfitter/Guide Facility on the parcel legally described as Lot 7A of Scenic Valley Tracts Subdivision, Section 17, Township 16 North, Range 02 West, Cascade County, MT **be denied** (ZBOA member proposing denial must delineate legal reason that the application be denied),”

Or

Alternative 2: “Move the Board adopt the Staff Report and **approve** the Special Use Permit for an Outfitter/Guide Facility on parcel legally described as Lot 7A of Scenic Valley Tracts Subdivision, Section 17, Township 16 North, Range 02 West, Cascade County, MT subject to the following conditions:

1. The applicant obtains approval from the City-County Health Department for the change of use.
 2. The facility must contract with an outfitter and provide a copy of the contract to Cascade County Planning for the file. Any changes with the outfitter must also be given to the Planning Division.
 3. A permit must be obtained for any sign that is placed on the premise, to ensure it meets the requirements of Cascade County Zoning Regulations. A phrase that the facility is “private” or “not open to general public” must be included on the sign or at the property entrance.
 4. The applicant obtains any other county, state, or federal permits required by the respective agency for the legal operation of the proposed use.
 5. The applicant adheres to all relevant building code requirements established by the Department of Labor and Industry.”
3. **Board Discussion:** [Audio Part 3 \[00:48:16\]](#)

Anna Ehnes: asks if the Board have received through their emails a copy of the latest public comment that the Planning Department has received.

Michele Levine: says yes, she has received the email with the attached public comment.

Charles Kuether: says yes.

Jane Doe 1: states to Mr. Reed that this public comment was received this morning.

Leonard Reed: says, “Oh.”

Jane Doe 2: says, “Can you guys...”

Michele Levine: says that concludes the Staff Report and asks if the Board has any questions or concerns. Hearing none, she asks if the applicant is present and if they would like to speak.

Destiny Gough: asks the Board to hold for a moment.

Charles Kuether: calls for Michele Levine.

Michele Levine: response.

Charles Kuether: says that he became muted for a second.

Michele Levine: understands.

Charles Kuether: says that he finds that the Board has previously discussed this matter before. However, he does not recall what the solution was for his question. He asks Anna Ehnes regarding the Condition of Approval number two (2) and page six (6) of the discussion of the application in the Staff Report, under Goal 1 B. The applicant states that the majority will also hire local outfitter guides. He asks what the connection between the statement made by the applicant and the Condition of Approval number two (2) is.

Anna Ehnes: says that typically the County Planning Department requires all of the outfitters and guides that the property owners' contracts with to submit copies of those contracts for the file record. To guarantee, that the correct approved use is taking place instead of otherwise.

Charles Kuether: asks if they are not required to use the guide that is at the facility. He asks if a visitor could hire someone else if desired and if they would just need to submit a copy of that contract to the county.

Anna Ehnes: says the Planning Department ensures that the applicant is contracted out with people and is aware that those contracted guides must have a license through the state of Montana to be an outfitter guide. It is on the applicant to ensure that their clients have their necessary permits to fish as well as do other related outdoor activities.

Charles Kuether: says that it is a matter if a client of Ms. Curney shows up at her outfitter guide facility without their proper permits/licenses, such as a fishing license.

Anna Ehnes: says correct.

Charles Kuether: thanks Ms. Ehnes.

Anna Ehnes: acknowledges his gratitude.

Michele Levine: asks if the Board has any additional comments or questions.

Rob Skawinski: asks a question regarding the condition of approval number three (3). He asks if this condition of approval means that a sign is required.

Anna Ehnes: says yes.

Rob Skawinski: understands and asks who they must obtain this permit through.

Anna Ehnes: says that the sign would need a Location/Conformance Permit.

Rob Skawinski: understands.

Michele Levine: asks if the Board has any additional comments or questions.

Anna Ehnes: ask the Vice-Chair if she can add to her statement the requirements for the Location/Conformance Permit.

Michele Levine: understands.

Rob Skawinski: says thank you.

Michele Levine: asks if the applicant has anything to add.

Patrica Curney at 7209 Fair Oaks Pkwy Boerne, TX 78015-4548: tells a bit of the history of the subject property. Afterward, she says that if anyone has questions, she is willing to answer them.

Michele Levine: asks if the Board has any additional comments or questions.

Charles Kuether: says no.

Michele Levine: asks if Mr. Skawinski has any questions or concerns.

Rob Skawinski: asks if the applicant has any issues with any of the conditions of approval that are being proposed.

Patrica Curney: says that she has none.

Michele Levine: asks if Mr. Reed has anything to add or ask.

Leonard Reed: says no and that Ms. Curney has done an excellent job preparing this proposal.

Patrica Curney: says thank you.

Michele Levine: asks for public comment.

4. **Public Hearing opens at 12:09 PM, [Audio Part 3 \[00:54:30\]](#)**

Proponents:

James Young: introduces himself.

Michele Levine: tells him that he may speak.

James Young: says that he is a proponent. Yet he does have some concerns. He is concerned about the maintenance of the roadway surface on Scenic Valley Lane. He says that thinks that under the previous SUP there was a condition of approval to help maintain the roadway. He suggests that maintaining the roadway would be a condition for this SUP.

Michele Levine: asks if he has anything else to add.

James Young: says that some of the neighbors had participated in improvements towards this road. He asks that there would be a condition that the applicant must participate in contributing to/paying for road improvements.

Rob Skawinski: asks if there is a homeowners' association for this road and is the road a privately-owned road or a county road.

Anna Ehnes: says that it is a privately maintained road opened to the public.

Rob Skawinski: understands and says that it is a complex situation.

Anna Ehnes: agrees.

Rob Skawinski: says that the county does not maintain as it is privately maintained.

Anna Ehnes: agrees.

Charles Kuether: agrees.

Rob Skawinski: asks if there is a homeowners' association (HOA) to help maintain the road presently.

James Young: says no there is no HOA.

Rob Skawinski: asks how one goes about getting the neighbors to participate and collect money from the neighbors to help maintain the road.

James Young: says that it is a voluntary process.

Rob Skawinski: says sure.

Michele Levine: asks if the staff could bring some clarification.

Anna Ehnes: says that they had checked all of the permits and the only permit that they could find was a Location/Conformance Permit for a garage on this property. If there was any other permit or prior permit it would not have been done through the County Planning Department as the County Planning Department does not have any record of it.

Michele Levine: understands and states that the Board has previously discussed that they do not have any jurisdiction over private roads. She asks for any additional comments from the Planning Director or the Chief Civil Attorney.

Carey Ann Haight: says none.

Michele Levine: asks if the Planning Director has any comments.

Charity Yonker: says that Mr. Young has indicated that the participation has always been voluntary with the surrounding landowners and to put a condition making it involuntary and mandatory on this particular landowner seems far-reaching and an HOA may take care of this issue.

Michele Levine: understands and asks for any additional public comments.

Brett Doney at 405 3rd St. NW Great Falls, MT 59404: says on behalf of the Great Falls Development Authority that outfitting is an important part of the Cascade County tourism industry. So, they are in favor of this project and are happy to see this project flourish.

Michele Levine: calls for more public comments.

Opponents: none

Public Hearing closes at 12:14 PM

5. **Board Discussion & Action:** [Audio Part 3 \[00:59:45\]](#)

Charles Kuether: says that he has a question for Ms. Curney. He starts to state his question.

Michele Levine: says that she cannot hear the audio coming through.

Charles Kuether: says that he is not on mute.

[Audio Part 4 \[00:00:00\]](#)

Charles Kuether: says that he is not on mute. He asks if Ms. Levine can hear him now.

Michele Levine: says yes and that it is her internet.

Charles Kuether: asks Ms. Curney while acknowledging that they do not have the jurisdiction over private if she is willing to volunteer to help maintain the road.

Patricia Curney: says yes and that she has participated in the past. She goes on to address the complaints about the road by stating that the road is still passable and that all of the neighbors still drive on it. She is willing to help out with the maintenance; however, she does not wish for the full responsibility of maintaining the road alone.

Charles Kuether: agrees and states that he is not suggesting that they should put a condition regarding this private road. He says that he was curious to see if she was willing to help participate.

Michele Levine: asks for further Board discussion. Hearing none, she calls for a motion.

Charles Keuther: moves, “[...] the Board adopt the Staff Report and **approve** the Special Use Permit for an Outfitter/Guide Facility on parcel legally described as Lot 7A of Scenic Valley Tracts Subdivision, Section 17, Township 16 North, Range 02 West, Cascade County, MT subject to the following conditions:

1. The applicant obtains approval from the City-County Health Department for the change of use.
2. The facility must contract with an outfitter and provide a copy of the contract to Cascade County Planning for the file. Any changes with the outfitter must also be given to the Planning Division.
3. A permit must be obtained for any sign that is placed on the premise, to ensure it meets the requirements of Cascade County Zoning Regulations. A phrase that the facility is “private” or “not open to general public” must be included on the sign or at the property entrance.
4. The applicant obtains any other county, state, or federal permits required by the respective agency for the legal operation of the proposed use.
5. The applicant adheres to all relevant building code requirements established by the Department of Labor and Industry.”

Michele Levine: calls for a second.

Rob Skawinski: seconds the motion.

Michele Levine: calls for a vote.

All in Favor, Motion carries 4-0.

B. SUP 004-2020, Townhome – Signature Homes LLC & SUP 005-2020, Townhome – Signature Homes LLC [Audio Part 4 \[00:02:47\]](#)

1. **Amber Hobbs & Charity Yonker:** present the Staff Report.
2. **Motions:**

Alternative 1: “Move that Special Use Permits #004-2020 and #005-2020 to allow the construction of a two-unit townhome on Lot 4, Block 16, Phase III of the Foothills Ranch Subdivision, and a two-unit townhome on Lot 3, Block 16, Phase III of the Foothills Ranch Subdivision be **denied** due to (ZBOA member proposing denial must delineate legal reason that the application be denied),”

Or

Alternative 2: “Move the Board to adopt the Staff Report in its entirety and **approve** Special Use Permits #004-2020 and #005-2020 to allow the construction of a two-unit townhome on Lot 4, Block 16, Phase 111 of the Foothills Ranch Subdivision, and a two-unit townhome on Lot 3, Block 16, Phase III of the Foothills Ranch Subdivision subject to the following conditions:

1. The Applicant obtains any other required county, state, or federal permits and comply with regulations associated with any other permits.
 2. Applicant obtains addressing from Cascade County Public Works/ GIS / Mapping Addressing for E911 purposes.
 3. Applicant obtains approval for septic permit from City-County Health Department to install septic system.
 4. Each two-unit townhome cannot exceed 150 feet in height.”
3. **Board Discussion:** [Audio Part 4 \[00:30:42\]](#)

Michele Levine: asks if the Board has any questions or comments. She lets Mr. Kuether know that he is on mute.

Charles Kuether: asks a question concerning page six (6). He says on the top of the page it says that the staff says, “With the inclusion of the conditions of approval recommended, each two-unit townhome will be in harmony with existing residences.” He says that he is perplexed as he does not see in the conditions of approval that would include harmony. He assumes that what is meant is that the townhome is professionally developed and designed. He wonders if he is missing the connection between the two.

Amber Hobbs: understands.

Charity Yonker: says that it is they are referring to the Foothills Subdivision in general and that this SUP shall be in accordance with those other SUPs in that subdivision as well.

Charles Kuether: says that they are not discussing the color or specific designs. They are discussing the townhomes/duplexes versus a single-family house.

Charity Yonker: agrees.

Charles Kuether: understands and thanks them. He then moves to discuss on page twelve (12). It says on page twelve (12) that the staff says, "Each two-unit townhome will be serviced by the Sand Coulee Fire Department. The Foothills Ranch Subdivision has a fire suppression system." He says that the application says that it is under phase three (3) of the subdivision. He asks what the distinction is between phase three (3) and the subdivision itself.

Charity Yonker: says no, there is no distinction.

Charles Kuether: asks if the statement refers to the suppression system that is in the entire subdivision and that it has nothing to do with phase three (3).

Charity Yonker: says that she would have to double-check but when she pulled up the approval for Foothills Ranch Subdivision, part of their approval was that the applicant of the subdivision had to have a fire suppression system in place. Thus, phase three (3) has a fire suppression system.

Charles Kuether: asks if it is grandfathered in.

Charity Yonker: says yes.

Charles Kuether: asks a question about the condition of approval number four (4). He asks if these conditions typically read differently, such as saying something like 150-350 ft. above the base elevation of the helicopter runway.

Charity Yonker: says yes that this condition should say something else.

Michele Levine: says for them to see page three (3) number eight (8).

Amber Hobbs: *[inaudible]*

Charity Yonker: says that it is not just the townhome as it applies to anything on the property. She says no structures can be built that exceed a hundred and fifty feet (150 ft.) on the properties.

Charles Kuether: asks if it is above that base.

Michele Levine: says of the helicopter.

Charles Kuether: asks if it is above that base elevation and for them to look on page three (3).

Michele Levine: says for them to see page three (3) and number eight (8), which reads, "The dwelling is located in the Military Overlay District, MOD-D (conical Surface), for Malmstrom Air Force Base. No structure in the MOD-D zone can be greater than 150 feet in height based on the elevation of the helicopter runway at Malmstrom (3,526 feet)." She asks if they should just adopt number eight (8) as a condition of approval number four (4).

Charles Kuether: says that he does not find that they need the whole statement, just part of it.

Michele Levine: asks if needs any structure.

Charity Yonker: agrees and says if they wanted to adopt number eight (8) on page three and start at the second sentence of number eight (8) which states “No structures...” and add the rest.

Charles Kuether: agrees.

Michele Levine: asks for any additional questions or comments.

Rob Skawinski: says none.

Leonard Reed: says none.

Michele Levine: asks if the applicant is present.

Charles Kuether: asks who signed the application as an LLC cannot sign off on the application and he cannot make out the signature.

Michele Levine: says that she as well cannot make out the signature.

Rob Skawinski: says that it is most likely Dan O’Leary.

Amber Hobbs: says that Dan O’Leary is the main contact for this project.

Michele Levine: asks if Dan O’Leary is present and states that she does not see anyone else present from the public anymore.

Leonard Reed: says that the applicant is probably busy building homes.

Michele Levine: opens for public comments.

4. Public Hearing opens at 012:52 PM, [Audio Part 4 \[00:37:12\]](#)

Proponents: none

Opponents: none

Public Hearing closes at 12:53 PM

5. Board Discussion & Action: [Audio Part 4 \[00:37:38\]](#)

Michele Levine: opens for Board Discussion & Action.

Rob Skawinski: asks if what she did is the same as asking for proponents and opponents.

Michele Levine: says yes.

Rob Skawinski: understands.

Michele Levine: says that she just combined the two sections.

Rob Skawinski: says that he likes it as it is more efficient. He says that finds these SUPs to be the same as some other ones that they have seen come through and are clear-cut.

Michele Levine: asks if there is any further discussion.

Charles Kuether: says no.

Michele Levine: asks for a motion.

Charles Kuether: asks if Mr. Skawinski would like to make a motion for approval.

Rob Skawinski: moves, “[...] the Board to adopt the Staff Report in its entirety and approve Special Use Permits #004-2020 and #005-2020 to allow the construction of a two-unit townhome on Lot 4, Block 16, Phase 111 of the Foothills Ranch Subdivision, and a two-unit townhome on Lot 3, Block 16, Phase III of the Foothills Ranch Subdivision subject to the following conditions:

1. The Applicant obtains any other required county, state, or federal permits and comply with regulations associated with any other permits.
2. Applicant obtains addressing from Cascade County Public Works/ GIS / Mapping Addressing for E911 purposes.
3. Applicant obtains approval for septic permit from City-County Health Department to install septic system.
4. Each two-unit townhome cannot exceed 150 feet in height.”

Charles Kuether: asks if Mr. Skawinski if they are going to correct the condition of approval number four (4) to read, “No structure in the MOD-D zone can be greater than 150 feet in height based on the elevation of the helicopter runway at Malmstrom (3,526 feet).”

Rob Skawinski: agrees.

Michele Levine: asks if the staff caught what they said.

Charity Yonker: says yes.

Michele Levine: asks for a second.

Charles Kuether: seconds.

Leonard Reed: seconds.

Michele Levine: says there are two seconds.

Charles Kuether: says that he will let Mr. Reed second the motion.

Michele Levine: say Mr. Reed second the amended motion and calls for a vote.

All in Favor, Motion carries 4-0.

6. **PUBLIC COMMENTS REGARDING MATTERS WITHIN THE BOARD’S JURISDICTION:** None. [Audio Part 4 \[00:40:17\]](#)
7. **BOARD MATTERS:** [Audio Part 4 \[00:41:16\]](#)

Michele Levine: ask if there are any other Board Matters. States that they need parking permits if the Board is ever to meet again in person if not; then no permits are needed.

Charles Kuether: adds that they will no need the permits if the city never puts the meters back on the streets as the meters are all missing.

Destiny Gough: says yes.

Michele Levine: asks when will the next meeting be and if they have received any other permit applications.

Amber Hobbs: says that she has another SUP for a second dwelling presently.

Michele Levine: asks if it is also from Signature Homes.

Amber Hobbs: says no. She says that it is from Ron Erpelding.

Michele Levine: says she did not hear that.

Amber Hobbs: says the applicant is Ron Erpelding and it is a different location.

Michele Levine: asks if everyone heard what she has said.

Charles Kuether: says yes.

Michele Levine: asks when will the next meeting be and says that her internet connection is unstable.

Rob Skawinski: says that they should adjourn then.

Charles Keuther: *[laughs]*

Charity Yonker: asks when a good time is for next month.

Michele Levine: asks if they should stay tuned.

Charity Yonker: says yes unless the Board would like to discuss when the next meeting should take place.

Michele Levine: understands and asks if they would like to do it at the end of June.

Charity Yonker: says sure.

Charles Kuether: says sure.

Rob Skawinski: says sure.

Charles Kuether: says that he can do that.

Michele Levine: says that she is not going anywhere, so that should work for her as well. She calls for Adjournment.

John Doe: says, "So Woah-".

Michele Levine: says but before she asks if there is anything else that the county staff would like to add.

Destiny Gough: asks if Ms. Hobbs and Ms. Yonker would like to further introduce themselves.

Charity Yonker: asks if the Board would like to hear their introductions.

Michele Levine: says yes, please.

Destiny Gough: says, "Yeah!" and claps.

Charity Yonker: says okay and laughs.

Michele Levine: welcomes aboard Charity Yonker as the new Planning Director and Amber Hobbs as the new Planner for Cascade County.

Charity Yonker: presents some of her and Ms. Hobbs's background. She states that she is the new Planning Director for Cascade County and that Ms. Hobbs is the new Planner on the team for the Cascade County Planning Department.

Michele Levine: asks if there are any other Board Matters.

Destiny Gough: says that is it from the Planning Department.

Michele Levine: asks if the Board or Carey Ann Haight has anything else.

Rob Skawinski: says no.

Charles Kuether: says no.

Michele Levine: says okay and congratulates everyone for surviving another long meeting. She then asks for a motion to adjourn.

8. **Adjournment: 01:03 PM, [Audio Part 4 \[00:47:32\]](#)**

Charles Kuether: moves to adjourn.

Michele Levine: calls for a second.

Rob Skawinski: seconds the motion to adjourn.

Michele Levine: calls for a vote.

All in Favor, Motion carries 4-0.