

STAFF REPORT
ZONING BOARD OF ADJUSTMENT
 Thursday, January 20, 2021
 9:00 a.m.

Room 105 Courthouse Annex, Cascade County Commissioners Chambers
 & Via Zoom (an online platform, see www.cascadecountymt.gov for more information)

SUP #036-2021

SUBJECT PROPERTY INFORMATION	
Name of Applicants & Owners:	Ranch Development LLC 104 4 th St N Ste 200 Great Falls, MT 59401
Legal Description:	NE 1/4, SE 1/4, Section 24, Section 24, Township 20 North, Range 4 East, MPM
Geo- Code:	02-3016-24-1-01-01-0000
Parcel Number:	2645600
Existing Zoning:	Suburban Residential District 2 ("SR-2")
Requested Action:	Approval of a Special Use Permit to allow excavation of sand and gravel
Surrounding Land Uses/Zoning:	North: Residential/SR-2 South: Vacant Agricultural/RR-5 East: Residential/SR-2 West: Vacant Agricultural/SR-2
Current Land Use:	Residential
Applicable Regulations:	Sections 7.2.4(2), 7.3.4(1), 8.1.5 10, Cascade County Zoning Regulations ("CCZR")

General Information:

The Cascade County Zoning Board of Adjustment ("ZBOA") is in receipt of a Special Use Permit ("SUP") Application from Ranch Development LLC to allow for excavation of sand and gravel on the Subject Property. The Applicant is requesting that a SUP be granted as required by Sections 7.3.4 (1)¹ of the CCZR.

General Provisions

A special use is a use for which conformance to additional standards will be required and shall be deemed to be a permitted use in its respective district, subject to the standards and requirements set forth herein, in addition to other applicable requirements of these regulations.

¹ CCZR § 7.3.4 "Uses Permitted Upon Issuance of a Special Use Permit: (1) Use permitted upon issuance of a special permit as set forth under RR-5 District regulations may be used in the SR-1 and SR-2 Districts. Pursuant to CCZR § 7.2.4(2), under the RR-5 District, allows excavation of sand and gravel upon the issuance of a SUP.

All such uses are hereby said to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

A SUP may be issued only upon meeting all requirements in these regulations for a specific use which is explicitly mentioned as one of the “Uses Permitted Upon Issuance of a Special Use Permit as Provided in Section 10” within the respective zoning districts contained in CCZR §§ 7 or Section 8.1.5. After the public hearing is closed, the ZBOA can approve, deny, or approve with conditions the SUP. A separate SUP shall be required per each tract of land. Appeals of the ZBOA decision shall follow the process outlined in CCZR § 12.

A SUP may be revoked by the ZBOA at any time a building(s) or use(s) is deemed to be in violation of the standards and zoning requirements under which the SUP was issued. A violation of a SUP will be handled as any other violation under CCZR § 13.

The ZBOA approval of the SUP shall be valid for only one particular use and shall expire one (1) year after the date of approval if construction or the use has not started. The Zoning Administrator may grant a one-time only six (6) month extension of the ZBOA’s approval. The SUP shall expire if the use ceases for six (6) months for any reason. Any further extension requests must be granted by the ZBOA prior to the date of expiration.

Additional Findings of Fact:

1. The property is owned by Ranch Development LLC.
2. The property is in the SR-2 Zoned District. Sand and gravel excavation is allowed in the SR-2 District with a SUP.
3. The property is not known to be in violation of the CCZR or any other County ordinances, and county taxes are current.
4. Legal Notice of the Application and the public hearing was published in the Great Falls Tribune on January 10, 2022, and January 17, 2022 and mailed to adjacent property owners, via certified mail, on January 7, 2022.
5. Access to the subject property will be from Barnwood Lane. This is a privately maintained road.
6. The subject property is located in the Conical Surface, MOD-D, for Malmstrom Air Force Base.
7. The subject property is not located within 2,400 feet of a Missile Alert Facility or Launch Facility.
8. The property is not located in the Regulated Flood Hazard Area².

² Subject Property is located in Zone X based on FIRM Panel No. 30013C0631E.

9. The subject property will be reclaimed once excavation use has discontinued per MCA § 82-4-400, et seq. Operational time limits will be from January, 2022 until December 2022.

Findings with Respect to the Analysis Criteria

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

1. Conditions may be required that the ZBOA determines if implemented, will mitigate potential conflicts in order to reach these conclusions.
2. The proposed development will not materially endanger the public health or safety.

Considerations:

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

Applicant: There will be no impact on traffic because area proposed to be excavate is on undeveloped land. One vehicle will access site from Barnwood Lane which is currently a service road on the perimeter of the Foothills Subdivision.

Staff: Significant traffic increases as a result of the addition of the subject property are not anticipated. The applicant has stated that due to the use of heavy machinery, a water truck will be provided during dry weather to prevent excessive dust.

- b. Provision of services and utilities including sewer, water, electrical, telecommunications, garbage collections, and fire protection.

Applicant: No major utilities will be needed.

Staff: There will be minimal effect on the utilities at, or around the proposed parcel. Condition #2 is proposed to require all necessary permits and/or approvals for wastewater from the City-County Health Department.

- c. Soil erosion, sedimentation, and stormwater run-off.

Applicant: Best management practices will be taken in compliance with Montana DEQ.

Staff: DEQ is currently reviewing the Open Cut Permit application that was submitted to them by the applicant. The initial site inspection has been

completed by the DEQ and no excessive erosion or sedimentation is expected. The project falls outside of the MS4 Stormwater Permit boundary. Condition #1 is proposed to require any and all state required permits.

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

Applicant: Site is far enough from any possible water supplies, no impact on water supply shall occur.

Staff: A condition of approval is recommended that will require the Applicant to obtain appropriate permits (see Condition #1).

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

Considerations:

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

Applicant: All land will be reclaimed upon completion of excavation. Reclaim will be seeded & restored to its natural state of surrounding areas.

Staff: The subject property will be used as a portion of Foothills Ranch Phase IV, which is currently in preliminary plat review. The proposed project will use the excavated material as the base material for the roads in Phase IV. The current uses to the east, west, and south are agricultural, with larger parcels that would act as a buffer to sound and dust. The parcels to the north are residential therefore, operations hours shall be limited from 7:00 a.m. until 7:00 p.m (See Condition #3).

- b. Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or county as to justify it regardless of its impact on the value of adjoining property.

Applicant: Gravel will be used as base material for road construction, which will help grow the Foothills Subdivision.

Staff: The planning department has determined that this use is not so necessary to the public health, safety, and general welfare of the community of county as to justify it regardless of its impact on the value of adjoining property.

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

Considerations:

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

Applicant: No Conflicts should arise. Site will be reclaimed back to a natural state.

Staff: The subject property is surrounded by residential uses, therefore, there is currently a conflict between the adjoining land uses. All conflicts shall be mitigated by restricting operating times (See Condition #3), adding a sight obscuring fence, berm, or other such improvement (See Condition #4), utilizing the use of a water truck to mitigate dust, and no physical or chemical processing or treating of the product shall be used (See Condition #5), unless given permission by the ZBOA. Once excavation activity is discontinued, the excavation shall be restored in accordance with Open Cut Mining Reclamation guidelines (see MCA § 82-4-400, et seq.)(See Condition #6)

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

- a. *Consistency with the Growth Policy objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its locational standards.*

Applicant: Gravel will help us grow the Foothills Subdivison.

Staff: The city of Great Falls Planning Department and Malmstrom Airforce Base were contacted. At the time of writing this report, no comment was given.

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

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

Applicant: Road construction of Phase 4 will provide more lots, which in turn helps the local economy.

Staff: The creation of Foothills Ranch Phase IV will help sustain and strengthen the real estate economy and meet housing demands that will help encourage home ownership within Cascade County. The intended excavation will be used for the future roads of Phase IV.

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

Applicant: This will help create a positive impact on the county tax base with access to future development.

Staff: The purpose of the proposed use will assist to increase the county's tax base, by providing access to more residential lots.

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

Applicant: Parties involved in listed industries could benefit by purchasing land accessed by phase 4 road construction.

Staff: The proposed use will not negatively affect businesses.

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

Applicant: Road will give access to more lots, growing one of the first subdivisions seen by travelers.

Staff: The use of the subject property will not negatively impact tourism or cultural resources.

E. *Foster and stimulate well-planned entrepreneurship among the county's citizenry.*

Applicant: Topic does not apply to excavation.

Staff: The use of the subject property will not negatively impact well-planned entrepreneurship among the county's citizenry.

F. *Promote a strong local business environment. Encourage and strengthen business support mechanisms such as chambers of commerce, development organizations and business roundtable organizations.*

Applicant: Excavation of this gravel should have no impact.

Staff: The proposed use will not negatively impact business support mechanisms.

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

Applicant: Purchasers of phase 4 lots will most likely shop local in some way.

Staff: The proposed use will not negatively impact business and could promote local shopping and new businesses growth. Employing locally will continue to allow employees who live and work in Cascade County to spend money earned in Cascade County at local businesses.

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

Applicant: *Gravel is onsite & should be considered a "local resource" that could be used to grow development.*

Staff: The proposed subject property will not negatively impact economic development efforts outside the county, as the excavated materials will only be utilized locally.

I. *Encourage the growth of the agricultural economy.*

Applicant: *Site will be reclaimed back to a natural agricultural state.*

Staff: The subject property was previously used for agricultural purposes, however, the proposed use will not negatively impact the agricultural economy.

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

Applicant: *No other alternative measures will be involved with development as of now.*

Staff: This Application does not propose the use of wind energy or other alternate methods of energy production.

Goal 2: Protect and maintain Cascade County's rural character and the community's historic relationship with the natural resource development.

Objectives:

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

Applicant: *Land disturbed by excavation will be reclaimed back to natural grassland.*

Staff: According to the USDA Web Soil Survey³, the Subject Property is considered farmland of statewide importance. The land went through

³ <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>

subdivision review for residential use of the subject property, Once the excavation of sand and gravel use has discontinued, the north portion of the parcel will be utilized as residential. The placement of the subject property will not have a negative impact on grazing, farmlands, or forests due to the existing land use in the subdivision currently.

- B. *Preserve Cascade County's scenic beauty and conserve its forests, rangelands and streams, with their abundant wildlife and good fisheries.*

Applicant: Other than site itself, all else will be undisturbed.

Staff: The proposed use will have a short term effect on the scenic beauty within Cascade County. Once the site has been reclaimed after extraction is finished, the scenic beauty will be renewed.

- C. *Preserve Cascade County's open space setting by encouraging new development to locate near existing towns and rural settlements and by discouraging poorly designed, land subdivisions and commercial development.*

Applicant: This gravel will help grow Foothills Subdivision, in turn encouraging relocation to Great Falls area.

Staff: The subject property is located adjacent to the Malmstrom Air Force Base and the City of Great Falls. This proposal supports the objective.

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

Applicant: Best management practices will be taken in compliance with Montana DEQ.

Staff: The proposed use does not plan on using any sort of wastewater system; however, if the need for a wastewater system arises, the applicant will need to obtain approval from the City/County Health Department for water/waste (see Condition #3).

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

Applicant: Excavation of gravel would support mining of natural resources.

Staff: The proposed use will utilize existing natural resources within Cascade County. The distance between the extraction location and the project location will be minimal.

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

Applicant: We will be in compliance with Cascade County & Montana DEQ.

Staff: The proposed use will be required by MCA § 82-4-400, et seq to restore the excavation site once all excavation activity has ceased. .

Goal 3: Maintain Agricultural economy

A. *Protect the most productive soil types.*

Applicant: All topsoil will be stripped and piled aside to top reclamation.

Staff: According to the USDA Web Soil Survey⁴, the Subject Property is considered farmland of statewide importance. It has been proposed that the topsoil will be stored during the excavation process and returned to the disturbed area once the excavation has been completed in order to reclaim the subject property.

B. *Continue to protect soils against erosion.*

Applicant: Best management practices will be taken in compliance with Montana DEQ.

Staff: The Planning Department does not anticipate a significant effect on soil erosion from the placement of this subject property. The Subject Property is approximately 170.276 acres. If more than one acre is disturbed during construction, a General Permit for Storm Water Discharges Associated with Construction Activity will be required by the Montana Department of Environmental Quality (see Condition #1).

C. *Protect the floodplain from non-agricultural development.*

Applicant: Floodplain should not be impacted by excavation.

Staff: The location of the subject property is not in a regulated floodplain area and therefore will protect the floodplain from non-agricultural development.

D. *Support the development of value-added agricultural industry in Cascade County utilizing the products from the regional area.*

Applicant: Local seed will be purchased to finish reclaim process.

Staff: The proposed subject property will not negatively affect the agriculture industry.

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

⁴ <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>

Objectives:

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

Applicant: Does not apply to excavation.

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

Applicant: Military personnel could potentially live or buy land in phase 4.

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

Applicant: Does not apply to fixed wing operations.

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

Applicant: Excavation should be in compliance with all military regulations.

Staff: The placement of the subject property will not negatively affect military presence. However, the placement of the subject property is in MOD-D of the Military Overlay District which restricts the height of any structures exceeding 150 feet in height to prevent interference with the runway. This use does not propose any new structures.

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

Objectives:

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

Applicant: As much as we would love to be independent and excavate gravel without governmental intervention, mining does not quite fall in that category. All permits will need to be obtained.

Staff: The proposed subject property will likely have little to no impact on Cascade County's citizens' rural lifestyle.

B. Preserve and promote Cascade County's rich cultural heritage, rooted in natural resource development and reflected in its numerous cultural/historic sites and archaeological areas.

Applicant: Site will be reclaimed & have no negative impact known at this time.

Staff: The subject property is not known to be a cultural/historic sites or a archaeological area.

C. *Promote fire prevention measures throughout the county, giving special emphasis to the extreme fire hazards present at the wild land/urban interface.*

Applicant: *Although fire risk is low, a water truck will be onsite.*

Staff: The proposed subject property will be serviced by the Sand Coulee Fire Department, and is considered having a low risk terrain/fuel hazard not located in the Wildland Urban Interface⁵.

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

Applicant: *Does not apply.*

Staff: The excavation of Sand and Gravel will not negatively affect continued development of educational programs and facilities, recreational opportunities and spaces and health services for all county residents.

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

Applicant: *Gravel will help us grow the Foothills Subdivison.*

Staff: The city of Great Falls Planning Department and Malmstrom Airforce Base were contacted. At the time of writing this report, no comment was given.

Section 10.7 Operations

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

Staff: Based on the information provided in the application, the proposed subject property regular working hours will conclude at 5:00 PM to prevent conflicts with residential uses, and will help mitigate conflicts because of noise, fumes, vibrations, or flashing lights.

⁵ Based on the Community Fire Plan Wildland-Urban Interface Cascade County and Dearborn FSA Map.

Motions:

The following motions are provided for the Board's consideration:

- A. Move that Special Use Permits #036-2021 to allow the construction of a subject property on Parcel #2645600, be **denied** due to (ZBOA member proposing denial must delineate legal reason that the application be denied); or
- B. Move the Board to adopt the Staff Report in its entirety with Findings of Fact and **approve** Special Use Permits #036-2021 to allow Excavation of Sand and Gravel on Parcel #2645600 subject to the following conditions:
 1. The Applicant obtains any other required county, state, or federal permits and approvals, and comply with the laws, rules, regulations, and/or ordinances associated with any other permits and approvals.
 2. Applicant obtains an approved Subsurface Wastewater Treatment System Permit from the City-County Health Department prior to installation of any wastewater treatment system.
 3. Operations hours shall be limited from 7:00 a.m. to 5:00 p.m.
 4. In the case of an open excavation there shall be a substantial fence, suitable gates, completely enclosing the portion of the property which the excavation is located in, and such fence shall be located at all points forty (40) feet or more from the edge of excavation.
 5. A sight obscuring fence, berm or other such improvement shall be required along the site perimeter(s) adjacent to the aforementioned abutting zone(s) and shall be installed or caused to be installed by the party to whom the special permit was issued prior to beginning operations under said special permit issued therefore. Said sight obscuring fence, berm or other such improvement shall be of a height sufficient to block the line of sight from occupancies of the aforementioned abutting zone(s) as determined by the Zoning Board of Adjustment.
 6. No rock crusher, cement plant, or other crushing, grinding, or polishing or cutting machinery, or other physical or chemical process for treating the product of such quarry shall be permitted, except in an I-2 District, or by permission of the ZBOA.
 7. In the case where excavation activity is discontinued, the excavation shall be restored in accordance with Open Cut Mining Reclamation guidelines (see MCA § 82-4-400, et. Seq).

Attachments:

- Special Use Permit Application
- Vicinity & Zoning Maps
- Applicable Zoning Regulations
- Comment

cc: Ranch Development LLC