

**STAFF REPORT**  
**ZONING BOARD OF ADJUSTMENT**  
**Thursday, January 20, 2022**  
**9:00 a.m.**

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

**SUP #037-2021**

SUBJECT PROPERTY INFORMATION	
Name of Applicant:	Matthew Graf 65 Gibson Flats Rd Great Falls, MT 59405
Name of Owner:	Paradise Fencing and Construction Company 6121 2 <sup>nd</sup> Ave N Great Falls, MT 59405
Legal Description:	Lots 2A, 3, & 3C, Section 10, Township 20N, Range 04E, P.M.M., Cascade County, MT
Geo- Code:	02-3016-10-2-04-23-0000
Parcel Number:	2047400
Existing Zoning:	Commercial
Requested Action:	Approval of a Special Use Permit for Contractor Yard, Large
Surrounding Land Uses/Zoning:	North: Government/MAFB South: Residential/C Commercial/C East: Residential/C West: Commercial/C
Current Land Use:	Commercial
Applicable Regulations:	Sections 7.10.11 (4) <sup>1</sup> , 8.15.2, & 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 Matthew Graf of Paradise Fencing and Construction Company to allow the use of Contractor Yard, Large use to store materials, trucks, and work inside the shop on the Subject Property. The Applicant is requesting that the SUPs be granted as required by Sections 7.10.11(4) of the CCZR.

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<sup>1</sup> CCZR § 7.10.11(4) “Uses Permitted Upon Issuance of a Special Use Permit” (4) Contractor Yard, Large.

## **General Provisions**

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

A 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 Paradise Fencing and Construction Company, Inc who is engaged in fencing and construction.
2. The property is in the Commercial Zoned District. Contractor Yard, is allowed in the Commercial District with a SUP. Contractor Yards are subject to the supplementary requirements of Section 8.15 and allow the exterior storage of materials, and waste, and provides no limit to the number of trucks, trailers, or other heavy equipment storage on the property.
3. Legal Notice of the Application and the public hearing was published in the Great Falls Tribune on January 9, 2022 and January 16, 2022 and mailed to adjacent property owners, via certified mail, on January 11, 2022.
4. Access will be off 2<sup>nd</sup> Ave North.
5. The subject property currently consist of three (3) individual lots. Lots must be aggregated.
6. The property is not located within 2,400 feet of a Missile Alert Facility or Launch Facility, and is not located within the Military Overlay District.

7. The property is not located in the Regulated Flood Hazard Area<sup>2</sup>.

### **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: Our property is by the base main gate at 2<sup>nd</sup> Ave North. There is currently 4 lanes for traffic and a middle lane for turning. There is no issue.***

**Staff: Additional traffic impacts as a result of the addition of the uses proposed is anticipated to be minimal. Based on the applicant responses in the Use Statement Form the owner will have 8-12 employees and 1-2 customers on-site weekly. They have 5-6 pickup trucks parked at over night.**

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

***Applicant: The existing structure is hooked up to city water and a septic system and we currently have garbage collections. The new structure will not be hooked up to the existing water or sewer.***

**Staff: The described scale and character of the proposed land use does not suggest any significant changes in the provision of services and utilities to the subject property. Condition #3 is proposed to require all necessary permits and/or approvals for wastewater from the City-County Health Department. Condition #2 is proposed to ensure that in the event of an emergency the property is addressed properly to assist with locating the subject property to prevent avoidable delay and decrease emergency response time.**

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

***Applicant: Not applicable. The new shop will not change water runoff.***

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<sup>2</sup> Subject Property is not located in Regulated Flood Hazard Area based on FIRM Panel No. 30013C0365E.

**Staff: An Interested Agency Notice was sent to the Municipal Separate Storm Sewer System (“MS4”) Coordinator who confirmed the subject property lies outside of the MS4 jurisdictional boundary and, therefore, does not require additional stormwater control practices for the county.**

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

***Applicant: Not applicable***

**Staff: Condition #1 and #3 is recommended that will require the Applicant to obtain appropriate permits through the City-County Health Department and any other required permits and approvals from other Departments and Agencies. According to the Use Statement form, city water will be used for 2-4 gallons per day.**

- 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: There will be no conflicts. The west side of our property is a storage unit complex and the east side is a dog kennel facility.***

**Staff: The Planning Department does not anticipate that the proposed uses will negatively impact the surrounding properties due to the surrounding commercial land in the vicinity.**

- 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: A new shop will help our company grow and also provide work for local contractors working on it.***

**Staff: The proposed uses are not necessary for the public health, safety, and general welfare of the community to justify it regardless of impacts.**

- 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:** *All of the adjoining properties are commercial buildings so there will not be any conflict.*

**Staff:** The proposed uses will be in harmony with existing community.

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

Considerations:

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

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

- A. *Stimulate the retention 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:** *This new shop will help our company grow and thus give us the ability to hire more employees in Great Falls.*

**Staff:** The proposed uses stimulate the retention of and expansion of the existing fence business.

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

**Applicant:** *A new shop would increase the value of our property and increase our property taxes to Cascade County.*

**Staff:** The proposed uses will assist to increase the county's tax base and do not involve the county's natural resources.

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

**Applicant:** *This new shop will provide subcontracting work to 6 different companies in Great Falls.*

**Staff: The proposed uses complement existing businesses and is compatible with the community.**

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

**Applicant: N/A**

**Staff: The proposed uses will not negatively impact tourism or cultural resources.**

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

**Applicant: Paradise sells fence materials to smaller fence companies that are starting up.**

**Staff: The proposed uses will not negatively impact well-planned entrepreneurship among the county's citizenry. The applicant's business model and practices encourage job growth.**

- 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: Paradise is a member of the Great Falls Home Builders Association and the Great Falls Chamber of Commerce.**

**Staff: The proposed uses promotes a strong local business environment through its contribution to the economy of Cascade County.**

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

**Applicant: Our fencing and construction company will be able to offer additional services to Great Falls.**

**Staff: The proposed uses likely produces a marginal amount of local trade capture and shopping based upon the scale of the applicant's operation and the nature of the product being produced.**

- 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: Paradise is a member of the Great Falls Home Builders Association and the Great Falls Chamber of Commerce.**

**Staff:** The proposed uses supports other economic development efforts by acquiring assembly compononets form other communities where those products are manufactured.

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

**Applicant:** *Paradise Fencing installs agricultural fencing.*

**Staff:** This project 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:** *We will not be using alternatie methods of energy production.*

**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:** *N/A, our property is surrounded by MAFB and businesses.*

**Staff:** According to the USDA Web Soil Survey<sup>3</sup>, the Subject Property is considered farmland of statewide importance classification. The Staff does not believe the placement of the project will have a negative impact on grazing, farmlands, or forests. It will likely have positive indirect impacts to agriculture or forestry in the county through the services provided by the applicant.

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

**Applicant:** *N/A, our property is surrounded by MAFB and businesses.*

**Staff:** The placement of the project is not anticipated to impact Cascade County's scenic beauty.

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:** *Our property is located in Great Falls.*

**Staff:** The subject property is east of Great Falls next to MAFB.

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

**Applicant:** *The shop is being built by MQS and was designed by a Engineer/Architect.*

**Staff:** The subject property will need to obtain approval from the City/County Health Department for water/wastewater (see Condition #3). The proposed uses will align with surrounding development.

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

**Applicant:** *Our company works in the oil fields and purchases local lumber for fencing.*

**Staff:** The proposed uses will not have a negative impact on natural resource development.

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

**Applicant:** *N/A*

**Staff:** The subject property is not located within a Superfund or Brownfields site.

### **Goal 3: Maintain Agricultural economy**

A. *Protect the most productive soil types.*

**Applicant:** *The existing property consists of gravel and asphalt millings.*

**Staff:** According to the USDA Web Soil Survey<sup>4</sup>, the Subject Property is considered farmland of statewide importance. Applicant has stated the lot will remain gravel and asphalt millings.

B. *Continue to protect soils against erosion.*

**Applicant:** *The existing property consists of gravel and asphalt millings.*

**Staff:** Significant effect on soil erosion from the project are not expected.

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

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based on FIRM Panel No. 30013C0365E.  
App/WebSoilSurvey.aspx

***Applicant: The property is not in the floodplain.***

**Staff: The location of the subject property is not in a regulated floodplain area.**

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

***Applicant: N/A***

**Staff: The proposed project will not negatively affect the agriculture industry.**

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

**Objectives:**

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

***Applicant: Paradise bids on work on MAFB as a General Contractor and also works as a Subcontractor on MAFB.***

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

***Applicant: Paradise bids on work on MAFB as a General Contractor and also works as a Subcontractor on MAFB.***

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

***Applicant: N/A***

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

***Applicant: N/A***

**Staff: The proposed uses will not negatively affect military presence or conflict with the Joint Land Use Study as the subject property is not located within 2,400 feet of a Missile Alert Facility or Launch Facility, and is not located in a Military Overlay District.**

**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: N/A**

**Staff: The proposed project 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: Paradise fencing has installed fence around historic sites.**

**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: The property is all gravel and asphalt millings.**

**Staff: The proposed project will be serviced by the Black Eagle Fire Department.**

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

**Applicant: Paradise Fencing installs construction fence around many projects in Great Falls.**

**Staff: The proposed uses 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: It will be consistent with the growth policy.**

**Staff: The application is consistent with the municipal or joint land use plans.**

## 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 shop will not result in a use more objectionable to nearby properties because of noise, fumes, vibrations, or flashing lights.**

### Motions:

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

- A. Move that Special Use Permits #037-2021 to allow a large contractor yard on Parcel #2047400, 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 #037-2021 to allow a large contractor yard on Parcel #2047400 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 addressing from the GIS Department for E911 purposes.
  3. Applicant obtains an approved Subsurface Wastewater Treatment System Permit from the City-County Health Department prior to installation of any wastewater treatment system.
  4. Any signage erected must comply with Section 8.1 of the Cascade County Zoning Regulations.
  5. Aggregation of all lots or separate SUP's for each lot the use will be on.

### Attachments:

- Special Use Permit Application
- Site Plan
- Vicinity & Zoning Maps
- FEMA Panel Map
- Applicable Zoning Regulations
- Comments

cc: Matthew Graf