

CASCADE COUNTY
ZONING BOARD OF ADJUSTMENT

08/19/2021

9:00 AM

Hybrid Format: In Person and Zoom Online Video Meeting

Board Members: Kathryn Hanning, John Harding, Charles Kuether, Ken Thornton, and Leonard Reed.

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.

DUE TO TECHNOLOGICAL DIFFICULTIES ONLY THE SECOND HAVE OF THIS MEETING WAS RECORDED. THESE MINUTES WERE COMPILED USING AVAILABLE NOTES AND AUDIO. 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: Joseph Cik, Kareece Dafoe, Anna Ehnes, Amber Hobbs.

PUBLIC ATTENDEES: Craig Carns, Abbiella Cochran, Casey Cummings, Tom Falla, Donald Garrison, Laura Goulet, Brianna Klinker, Sharon Knudson, Catherine Korona, Russell Martello, Billie Partridge, Nancy Partridge, Mary Sinnott, Joy Stender, DJ Tamburo, Marvin Thompson, Lalonni Ward, Eleanor Wigan, Dick Zadick.

1. CALL TO ORDER: The Chairman of the Board Charles Kuether called the meeting to order at **09:05 AM**¹.

2. ROLL CALL:

BOARD MEMBERS PRESENT: John Harding, Charles Kuether, Ken Thornton, Leonard Reed.

BOARD MEMBERS ABSENT: Kathryn Hanning.

3. APPROVAL OF THE MINUTES:

- a. Draft Meeting Minutes for May 20, 2021 are Approved.
- b. Draft Meeting Minutes for June 17, 2021 are Approved.
- c. Draft meeting Minutes for July 15, 2021 are Approved.

4. OLD BUSINESS: None

5. NEW BUSINESS:

¹ Due to technical difficulties, audio and video are not available for the first SUP. Minutes are therefore based on available written documentation. Where actual times are not available, video timestamps are used.

A. Special Use Permit Application #009-2021, Submitted by the Sparkettes of Montana for the Use of Outdoor Entertainment.

1. Staff Report presented by Amber Hobbs, Planner.

Motions Provided for the Board's Consideration:

A. I Move that Special Use Permit #009-2021 for the use of "Outdoor Entertainment" be denied due to (ZBOA member proposing denial must delineate legal reason that the application be denied); **or**

B. I Move the Board, after consideration of the Staff Report and public comment, adopt the Staff Report in its entirety and approve Special Use Permit #009-2021 for the use of "Outdoor Entertainment" on Parcel #2630700, Geocode: 02-3016-16-1-01-06-0000 subject to the following conditions:

1. The Applicant obtains any other required county, state, or federal permits and approvals, and complies with the respective laws, rules, regulations, and ordinances.
2. No structures on the subject property may be built greater than 150 feet in height.
3. After any event, the property shall be cleaned up within 48 hours, and event items shall be stored out of site.
4. For the Trail of Terrors the hours of operation shall be limited to 7:00 pm to 11:00 pm during the month of October on Fridays and Saturdays. Otherwise, hours of operation must be from 7:00 am to 7:00 pm.
5. Adequate screening shall be installed and maintained around the parameter of the event area. Adequate screening shall be least 6 feet tall and site obscuring.

2. Board Discussion: 09:32 AM

Charles Kuether: Asks a question about housing to the west correction and land owner responsibility versus applicant liability.

Joseph Cik: Responds.

3. Public Hearing Opened at 9:40 AM.

Proponents:

Laura Goulet of 421 6th Ave S, Great Falls, MT 59405: Says she is the applicant and Director of Sparkettes, twenty years haunted house with ten years at the present location. Temp buildings are pallets, T-posts, one permanent building. Staff are all-volunteer, non-profit, fundraising community event.

Abbiella Cochran of 4216 62nd Ave SW, Great Falls, MT 59404: Says she has nine years with Sparkettes, enjoys Trail of Terrors.

Catherine Korona of 1606 18th Ave SW: Says she is a board member of Sparkettes, volunteers that help the community. She says they have \$300 in profits from cocoa, they remove trash, clean porta-potties, there is no water and no sewer.

Brianna Klinker of 421 6th Ave S, Great Falls, MT 59405: Says she is an 18-year participant, full ride scholarship to MSU had funding for competition.

DJ Tamburo of 421 6th Ave S, Great Falls, MT 59405: Says he is a one-year volunteer, and mentions clean but cold fear adrenaline. He supports airsoft, but no laser.

Opponents:

Craig Carns of 4412 14th Ave S. Great Falls, MT 59405: Says no trash, concerned about buildings 365 days a year due to transients, vagrants, vandals and safety concerns, and the buildings are hazards. Concerns for fire safety, airsoft stations for hiding. Fencing costs in effect, and it attracts transients. Going inside the buildings is a huge liability.

Mary Sinnott of 1213 45th St S: Says there had been complaints on structures, it is a year-round eyesore and trash problems grown over the five years living there.

Marvin Thompson of 4615 12th Ave S: Says there are haystack barrels, lawn and traffic issues and the post with reflectors/fencing issues.

Casey Cummings of 307 4th St SW: Says he is a on Developer 13th Ave S, wants cleanup done and for the ZBOA to see the property, noting complaints and wants to see some changes made. Has built condos for 10 years, does not want it to continue.

Lalonne Ward of 70 McKinior Rd Great Falls, MT 59405: Says Joy Stender and neighbor supports Sparkettes and fundraising, comments submitted include violations of community decay, litter. Wants conditions for cleanup for safety per CCZR-amusement venue. No Cascade County/State regulations traffic; suggestions for haunted house temporary. Wants property cleaned up, submit by email photos.

Eleanor Wigen of 4608 12th Ave S. Great Falls, MT 59405: Says the complaint Comment form deadline is past, so she is making an in-person complaint of no lights on the street and no room for parking, plus traffic.

Sharon Knudson of 4609 12th Ave S Great Falls, MT 59405: Says she has safety concerns about the unsightly property.

Public Hearing Closed at 10:35 AM.

4. Board Discussion and Action:

John Harding: Speaks of private property rights.

Charles Kuether: Asks Mr. Cik.

Linda: Says it can't be temporary, or too windy.

Ken Thornton: Begins speaking of temporary use or temporary structures *[interrupted by Mr. Zadick]*.

Dick Zadick of 3300 14th Ave S. Great Falls, MT 59405: Says he is a land owner, and says no one contacted him directly about the Sparkettes.

Joseph Cik: Says the public hearing is closed, and he will need to submit a community decay complaint.

Leonard Reed: Says he likes the recreation for kids and the activities.

Dick Zadick: Says that supervised by a bonded contractor, it has a rustic intended look.

Amber Hobbs: Says it stems from a complaint.

John Harding: “Move the Board, after consideration of the Staff Report and public comment, adopt the Staff Report in its entirety and approve Special Use Permit #009-2021 for the use of “Outdoor Entertainment” on Parcel #2630700, Geocode: 02-3016-16-1-01-06-0000 subject to the following conditions:

1. The Applicant obtains any other required county, state, or federal permits and approvals, and complies with the respective laws, rules, regulations, and ordinances.
2. No structures on the subject property may be built greater than 150 feet in height.
3. After any event, the property shall be cleaned up within 48 hours, and event items shall be stored out of site.
4. For the Trail of Terrors the hours of operation shall be limited to 7:00 pm to 11:00 pm during the month of October on Fridays and Saturdays. Otherwise, hours of operation must be from 7:00 am to 7:00 pm.
5. Adequate screening shall be installed and maintained around the parameter of the event area. Adequate screening shall be least 6 feet tall and site obscuring.”

Leonard Reed: Seconds the Motion.

All in Favor, motion carries 4-0.

B. Special Use Permit Application #011-2021, Submitted by Russell Martello for the Use of Tourist cabins. 11:03 AM.

1. Staff Report presented by Anna Ehness, Planner.

Motions Provided for the Board’s Consideration:

A: “Move that Special Use Permit #011-2021 to allow the use of Tourist Cabins on Parcel #000526500 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 and Findings of Fact in its entirety and approve Special Use Permit #011-2021 to allow the use of Tourist Cabins on Parcel # 0005265200 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. Board Discussion 00:19:38

Charles Kuether: Asks if Staff have questions.

John Harding: Asks why [*Inaudible*].

Anna Ehnes: Provides an explanation on the use of the tourist cabins and their use without permitting. [*Inaudible*]. Says that DOR let the Department know that the cabins were revamped and to use them as tourist cabins would require SUPs.

John Harding: Says he sees.

Leonard Reed: Says these are North out of Belt as you are going to Highwood.

Anna Ehnes: Confirms.

Leonard Reed: Asks how far out they are.

Anna Ehnes: Says about eight miles from Belt. Eight miles northeast.

Leonard Reed: Asks if it is close to where the road comes in from Four Corners.

Anna Ehnes: Says she would have to look at a map. Apologizes.

Leonard Reed: References the distance that comes over the hill, a shortcut to the highway.

Anna Ehnes: Says she cannot tell him for sure, though it is close to the county border.

Leonard Reed: Acknowledges the information and thanks Anna.

Anna Ehnes: Says of course.

Charles Kuether: Says he has two questions. References the statement of non-commercial use.

Anna Ehnes: Confirms it.

Charles Kuether: Asks if there is no money involved.

Anna Ehnes: Not with the use that is being proposed, although they would still be able to do that if they chose to unless the Board conditions otherwise. Explains that Cascade County does not allow more than two single family dwellings on a property. The only way to alleviate the violation was to get permitted as tourist cabins.

Charles Kuether: Says they are being used privately and non-commercial.

Anna Ehnes: Says it is correct.

Charles Kuether: Asks for clarification that that is what they are doing now, and if the Board grants them the request, they would be allowed to do so commercially.

Anna Ehnes: Says that is correct, and that is why the condition is listed on there, as the Health Department looks at tourist cabins differently than the Planning Department does. There is different permitting for that.

Charles Kuether: Says as he was reading it he wondered how it was different than letting someone use his house.

Anna Ehnes: Says yes, [*inaudible*] for how they are proposing.

Charles Kuether: Asks if the Applicant is present.

Russell Martello of 208 Riverview 4E Great Falls, Montana 59404: States he is a General Contractor and a representing agent for the owners. Provides background for the situation as

having existing structures on the parcel, as well as a home with an attached garage and a detached shop, and a detached double garage, a shed as an outbuilding. The owners wanted to convert and remodel the garage and the shop into tourist cabins. Gives the reason for not doing a Location Conformance Permit or Special Use Permit as an oversight on his own part, as normally a remodel does not require a Location Conformance Permit, though a change in use does. He explains that once they received the violation notice, they wanted to establish the legality of the cabins, to bring everything into compliance. He provides background on the adjoining residences and their uses as guest cabins for family when visiting. Mr. Martello thanks the Board [00:24:39].

Charles Kuether: Says he is going to open the Hearing for Public Comment.

3. Public Hearing opens at 11:28 AM.

Charles Kuether: Calls for Proponents (3) three times; calls for Opponents (3) three times.

Proponents: None.

Opponents: None.

Public Hearing closes at 11:29 AM.

4. Board Discussion & Action : [00:25:24].

Charles Kuether: Asks if there are any questions or comments from the Board.

Leonard Reed: Says it seems straightforward.

Charles Kuether: Asks for a Motion.

Ken Thornton: "I move the Board to adopt the Staff Report and Findings of Fact in its entirety and approve Special Use Permit #011-2021 to allow the use of Tourist Cabins on Parcel # 0005265200 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."

Charles Kuether: Asks if there is a Second.

John Harding: Seconds the motion.

Charles Kuether: Asks if there is any discussion. *Hearing none, he calls for a vote.*

All in Favor, motion carries 4-0.

C. Special Use Permit (SUP) #012-2021, Submitted by Billie Partridge for a Second Single-Family Dwelling [00:26:28]

1. Staff Report presented by Kareece Dafoe, Planner .

Motions Provided for the Board 's Consideration:

A: Move that Special Use Permits #012-2021 to allow the construction of a second dwelling unit on Parcel #3786725 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 and **approve** Special Use Permits #012-2021 to allow the construction of a second dwelling unit on Parcel #3786725 subject to the following conditions:

1. The Applicant obtains any other required county, state, or federal permits and approvals, and comply with said requirements 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.

2. Board Discussion [00:49:11].

Charles Kuether: Asks if there are any questions for the Staff. *None heard.* Calls for proponents.

Joseph Cik: Asks if Mr. Kuether called for the Applicant.

Charles Kuether: Calls for the Applicant.

[Inaudible chatter heard]

Billie Partridge Of 907 Castner Falls Road, Cascade, MT 59421: Says it is her mother's property with her tiny trailer on it. Says it would be beneficial if she could be closer to her mom, as her dad died a few years ago and her mom lives in the country by herself. Explains events that happened, to include fires, that cause concern for her mother's well-being when alone. Explains she and her mother are a good team, and they would both feel better if she could be closer to her mother.

Charles Kuether: Calls for Proponents.

3. Public Hearing opens at 10:23 AM, [00:49:17].

Proponents: Nancy Partridge of 907 Castner Falls Road, Cascade, MT 59421: Explains she owns the property, has no debt and that the location is a good place for her daughter. Explains that her daughter can assist her in winter in case she falls or has any issues.

Opponents: None.

Public Hearing closes at [00:52:55].

4. Board Discussion & Action: [00:53:01].

Charles Kuether: Calls for questions from the Board.

Ken Thornton: Says when his grandfather got too old, his uncles took over the ranch and bought a trailer for his grandfather.

Charles Kuether: Says it was the same in his family.

John Harding: “Move the Board to adopt the Staff Report in its entirety and **approve** Special Use Permits #012-2021 to allow the construction of a second dwelling unit on Parcel #3786725 subject to the following conditions:

1. The Applicant obtains any other required county, state, or federal permits and approvals, and comply with said requirements 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.”

Charles Kuether: Says before he asks for a Second, he would like to propose they add that they adopt the findings of fact.

John Harding: Says he thought they had that discussion at the last meeting.

Charles Kuether: Says they did, but it is not there in the verdict.

John Harding: Says he thought they determined that adopting the report [*is interrupted by Mr. Kuether*].

Charles Kuether: Says well, in a way it does but [*is interrupted by Mr. Harding*].

John Harding: Says [inaudible] adopts the entire report.

Charles Kuether: Says it adopts the report, but the Board needs to establish its own findings of fact, and he thinks it is clear if they want to adopt their own findings of fact and adopt the report. Says if Mr. Harding is willing to do that, it makes a better record.

John Harding: [*Examines pages in report*]. Says he can do that, he can add that.

Charles Kuether: Says thank you.

John Harding: Says the concern with that would be they adopt the finding of fact, so why don't they adopt the addition and findings with respect to the analysis criteria, and then they don't have to adopt this page by page. He points it that it is in the report.

Charles Kuether: Says he does not think the analysis criteria and the other things are required for the Board to make a decision where the Board must establish findings of fact for the Board to make a decision. He says he thinks that is the distinction. Unless [*gestures to indicate Joseph Cik*] you have other thoughts.

Joseph Cik: Says he agrees, the Board needs to make their own findings, and that Mr. Harding said is not necessarily untrue, though by adopting the report you are adopting those finding, which Mr. Keuther is suggesting cannot hurt. He explains that if the motion has been amended to reflect that, and therefore would be able to get a Second on that Motion.

Charles Kuether: Says he thinks the point is that there is an established procedure the Board is happy with rather than [inaudible].

Joseph Cik: Says he was watching the Planners, who had mentioned changing the motion [*inaudible*]

Charles Kuether: Says the previous motion did include a separate verbiage about the findings of fact, which is why he brought the subject up.

Joseph Cik: Says thank you to Mr. Chair.

Charles Kuether: Asks if there is a Second to the Motion.

Ken Thornton: Seconds the Motion.

Charles Kuether: Calls for a vote.

All in Favor, motion carries 4-0.

[Inaudible chatter]

Charles Kuether: Says he doesn't see Charity.

Anna Ehnes: Says it would be her.

Charles Kuether: Asks if Anna is the Charity look-alike *[Laughter follows]*.

Anna Ehnes: Says she is.

d. Special Use Permit (SUP) #015-2021 & #016-2021, Submitted by Riverside Constructing, Inc. to Extract Raw material [1:01:11]

1. Staff Report Presented by Anna Ehness, Planner .

Motions Provided for the Board's Consideration:

A. Move that Special Use Permits #015-2021 and #016-2021 to extract raw materials from the Subject Properties described as Parcel Nos. 5073700 and 5073800 be denied due to (a legal reason delineated by the ZBOA);

Or

B. Move the Board, after consideration of the Staff Report, Findings of Fact, and public comments, adopt the Staff Report in its entirety and approve Special Use Permits #015-2021 and #016-2021 to extract raw materials from the Subject Properties described as Parcel Nos. 5073700 and 5073800 subject to the following conditions:

1. A fence shall be erected with suitable gates to completely enclose the portion of the Subject Properties which the excavation is located in, and such fence shall be located at all points forty (40) feet or more from the edge of the excavation area.
2. 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.
3. The excavation shall be restored in accordance with the Open Cut Mining Reclamation guidelines.
4. Where excavation abuts the Mixed-Use District to the North of the Subject Properties, a sight obscuring fence, berm, or other such improvement shall be required along the site perimeter adjacent to the Mixed-Use District, 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 Mixed-Use District.

5. Hours of operation for the above listed use shall be limited to 7:00 a.m. to 7:00 p.m.
6. The Applicant obtains any other required county, state, or federal permits and approvals, and comply with all respective laws, rules, regulations, and ordinance associated.

Leonard Reed leaves at **12:16 PM, [01:12:18]**.

2. Board Discussion [01:23:20]

John Harding: Says there is one point of clarification, missed Motion A and he wasn't sure if she had to read it as part of the report.

Various Board and Staff members: [Inaudible].

Joseph Cik: Says to go ahead and read it, thought it is more of a county policy than a state requirement.

Anna Ehnes: Reads Motion A, then gives the reason why she did not read Motion A as that as mentioned earlier in the Staff Report that legally, the Board cannot deny it.

Joseph Cik: Says it is fine.

John Harding: Says okay.

Anna Ehnes: [Inaudible]. Says she wants to add on record, that they [Applicant] did obtain one Floodplain Permit and a variance [inaudible].

John Harding: Asks why they need a floodplain permit.

Anna Ehnes: Says it is on the floodplain in Cascade County.

Stacey Hill: Says [Inaudible] the Belt bridge project, not [inaudible].

John Harding: Says he has got it. Asks about condition number four, and whether it is regulated by DEQ through the whole process.

Anna Ehnes: Clarifies that condition number four is due to a requirement of 8.1.8 and 8.1.5.

John Harding: Says the reason he is asking is because they are checking the [inaudible] policy.

Anna Ehnes: Starts to apologize.

Joseph Cik: Says that it is not necessarily true. The Planning staff, particularly the Code Enforcement Officer, as well as Public Works are often tasked with inspecting sites to ensure the requirements are being met. Explains that there are MOU's between the State and the County and the City and different agencies to ensure the inspections are taken and requirements are being met.

John Harding: Says okay.

Anna Ehnes: Explains that it is required by CCZR 8.1.5 Subsection 4 [*hands Mr. Harding the CCZR manual*].

John Harding: Says he knew she would have that answer. [*Laughter*]

Charles Kuether: [Inaudible].

John Harding: Says okay [*hands back the manual*].

Charles Kuether: Asks if the Applicant is present.

Stacy Hill of 117 Woodland Estates Road Great Falls, MT 59404: Says she is the environmental engineer for Riverside Contracting, and the contractor for MDT for the Belt North and South phase three project. Explains that they will be expanding the corridor from milepost sixty-nine to seventy-three, a distance of approximately four miles, to go from two lanes to five with a new bridge over Belt Creek, with a much-maligned roundabout at Armington Junction and [inaudible] structures at Neil Creek and Frenchman's Coulee. She explains the widening that needs to be done for those activities, which means extra materials will be needed. She describes the proposed site to the Board and explains why the barrier requirement would make it impossible it tie in those grades.

Charles Kuether: Asks Ms. Ehnes for an opinion when not having written the report.

[*Laughter*]

Anna Ehnes: Says that it was written out in Section 8.1.5 Subsection 4, and she thinks an actual variance would have to be applied for, which they do not have. She explains it would extend the Applicant to the next meeting depending on when that is submitted. She does not think the staff would support just getting rid of it.

Joseph Cik: Says he agrees with Ms. Ehnes, saying that variances are their own application process, and they do not have that in this situation. Says that procedurally, the easiest way for the Board to handle that would be to move to table to a date certain, and then allow for the supplemental variance application. Explains that it's a separate process.

Charles Kuether: Asks what happens if the Board approves the application and then the Applicant applies for a variance to one of the conditions.

Joseph Cik: Says that can happen, however the Board would have to make the specific Motion specifically not eliminating the condition, and then they could come back and apply for a variance.

Charles Kuether: [Inaudible].

Joseph Cik: Says yeah and again it cannot be [inaudible] from this.

Various people speaking at once: [Inaudible].

Charles Kuether: Says [Inaudible] timeframe is for getting going here.

Stacy Hill: Says the project started Monday [*laughter*].

Charles Kuether: Says if [inaudible] cramps the Applicant's style, the board could potentially approve the application today, and the Applicant knows a variance must be applied for to remove number four (4) so the Applicant does not get sideways with the County.

Stacy Hill: Says yeah, because right now the highway is a construction project itself, the barrier would have to be put between two [inaudible].

Charles Kuether: Says right, it would somehow be on top [of the bluff].

Unidentified Speaker: Asks for clarification for the barrier's existence and use.

Charles Kuether: *Points to Ms. Ehnes to clarify.*

Anna Ehnes: Says she reads it as for visual reasons, though the final clarification would have to come from the Director. One additional thing to put on record is that she thinks it may be an appeal process to go through to remove that [condition number four] from the application.

Joseph Cik: Says that may be true as well and that it is also a separate process as well.

Charles Kuether: Says he is trying to figure out how to accommodate the Applicant time-wise and make it work for everybody.

Unidentified Speaker: Says he thinks it sounds like they are to put the berm in there, do the project, and take the berm out [Inaudible].

Charles Kuether: Says okay.

Stacy Hill: Says she can still try to get the variance or whatever it takes to get it going as soon as possible.

Charles Kuether: Clarifies that the Applicant that if the Board approves it the way it is written-

Stacy Hill: Says they will try to make it work.

Charles Kuether: Makes a joke reference falling objects. Asks if there is anything else the Applicant wants to add.

Stacy Hill: Says she doesn't think so.

Charles Kuether: Says they will see what the audience has to say about the application. *[Laughter].*

3. Public Hearing opens at 10:23 AM, [01:33:33].

Proponents: None.

Opponents: None.

Public Hearing closes at 12:38 PM, [01:33:55].

4. Board Discussion & Action:

Charles Kuether: Asks for comments or questions for the Board.

John Harding: Says not really.

Charles Kuether: Asks if someone wants to make a motion.

Ken Thornton: “I Move the Board, after consideration of the Staff Report, Findings of Fact, and public comments, **adopt** the Staff Report in its entirety and **approve** Special Use Permits #015-2021 and #016-2021 to extract raw materials from the Subject Properties described as Parcel Nos. 5073700 and 5073800 subject to the six conditions”.

Charles Kuether: Asks if there is a Second.

John Harding: Seconds the Motion.

Charles Kuether: Asks if there is any discussion.

John Harding: Says he has just one comment, in reference to condition number four, there is a certain hardship when one considers the agencies involved they would probably be able to mitigate that, and if there is no public health or safety [inaudible] , one would think they could figure out a way to make that happen.

Charles Kuether: Says he wouldn't even worry about condition number four.

Joseph Cik: Says the County and government agencies would work to accommodate that, but the process cannot be done in a day.

Charles Kuether: Says he thinks the Department of Transportation wouldn't be a big stumbling block [Laughter].

Various people speaking at once: [Inaudible].

Stacy Hill: Explains that [inaudible] is a visual barrier as the homes near the site to the North are below grade down in the valley.

Charles Kuether: Calls for a vote.

All in favor, motion carries 3-0.

Charles Kuether: Tells the Applicant they are all set to go on Monday.

Stacy Hill: Says she still needs an open cut permit. [Laughter].

Charles Kuether: Says it is one less [inaudible] for the applicant then.

e. Special Use Permit (SUP) #013-2021, Submitted by Missouri River Trucking & Excavating to Operate a Gravel Pit [01:36:14]

Staff Report presented by Kareece Dafoe, Planner .

Charles Kuether: Asks if there is no audience, does the Planning Department still need to read the report or can the Board skip to the recommendations?

Anna Ehness: Says for legal reasons, they need to prove that the Board has seen the materials, and they need it on record.

Charles Kuether: Asks whether they can swear they have read the materials.

Anna Ehness: Says that would be a question for Joe.

Charles Kuether: Says they have a “Joe” question [as Mr. Cik returns].

Joseph Cik: Apologizes, asks what the question is.

Charles Kuether: Repeats the questions for Mr. Cik.

Joseph Cik: Explains that while it is not statute, it is County policy that it be read into the record. Says he can confer with the other attorneys and see if the policy can be changed.

Charles Kuether: Asks if Mr. Cik can do so.

Joseph Cik: Says he will.

Kareece Dafoe: Continues presenting the Staff Report.

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

A. Move that Special Use Permits #013-2021 to allow the mining of gravel project on Parcel No. 4658900 having Geocode 02-3134-28-4-04-01-0000 be denied due to (a legal reason delineated by the ZBOA);

or

B. Move the Board, after consideration of the Staff Report and public comments, adopt the Staff Report in its entirety and approve Special Use Permits #013-2021 to allow the mining of gravel project on Parcel No. 4658900 having Geocode 02-3134-28-4-04-01-0000 subject to the following conditions:

1. The Applicant obtains any other required county, state, or federal permits and approvals, and comply with all respective laws, rules, regulations, and ordinance associated.
2. 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 the excavation.
3. 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.
4. In the case where excavation activity is discontinued, the excavation shall be restored in accordance with Open Cut Mining Reclamation guidelines.
5. In the case where a natural production use abuts an R District, a C District, an I-1 District, a MH District, or an OS District, 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. Hours of Operation for the above listed use shall be limited to 7:00 a.m. to 7:00 p.m.

3. Board Discussion [02:02:28]

Charles Kuether: Says he has a question reference the abutting zoned districts and wants clarification whether those zones abut the proposed excavation site.

Kareece Dafoe: Says there aren't any.

Charles Kuether: Asks whether they need to include that part.

Kareece Dafoe: Explains that it is in the regulations for 8.1.5 for the stipulation of mining, and that if the area was ever re-zoned in the future that would be the case.

Charles Kuether: Says he knows it is a standard one but did not know what adjoining districts qualified to be included.

Joseph Cik: Explains that because it is in their zoning regulations, it does need to still be included.

Charles Kuether: Asks if this is so even if nothing would apply.

Joseph Cik: Says yes. Reiterates that if one of the other parcels were to develop into one of the other different types of categories, it would be those property owners who had the burden to get a variance and go through the process. Says that for the purposes of this proceeding, that condition does need to be in there.

Charles Kuether: Explains it is more educational for him.

Joseph Cik: Says yes.

Charles Kuether: Asks if there are any other questions.

John Harding: Says he thought it was interesting that the Applicant reminded them several times that gravel isn't alive.

Charles Kuether: [Inaudible]

Various people: *Laughter.*

Joseph Cik: Says that would be very scary.

Charles Kuether: Says that gravel creeping across the [inaudible].

Various people: *Laughter.*

Ken Thornton: [Inaudible].

Charles Kuether: [Inaudible] good sense of humor. *Laughter.*

Ken Thornton: [Inaudible] mother in law. *Laughter.*

Charles Kuether: Asks if they have a motion.

Joseph Cik: Says they still need to do the public hearing portion.

3. Public Hearing opens at 1:08 PM, [02:05:13]

Proponents: None.

Opponents: None.

Public Hearing Closes at 1:09 PM, [02:05:30]

4. Board Discussion & Action [02:05:39]

Charles Kuether: Calls for a Motion.

John Harding: "Move the Board, after consideration of the Staff Report and public comments, **adopt** the Staff Report in its entirety and **approve** Special Use Permits #013-2021 to allow

the mining of gravel project on Parcel No. 4658900 having Geocode 02-3134-28-4-04-01-0000 subject to the following conditions: listed 1 through 6”.

Charles Kuether: Asks if there is a Second.

Ken Thornton: *Raises his hand*, Seconds the motion.

Charles Kuether: Calls for discussion. Calls for the Vote.

All in Favor, Motion Carries 3-0.

2. BOARD MATTERS at 1:10 PM, [02:06:42]

Charles Kuether: Asks if there is anything else they would like to bring up.

John Harding: Says just so they do not forget that in the future, after “Staff Report”, place the findings of fact language.

Charles Kuether: Says he agrees. He explains it is getting incorporated in there, slowly but surely. He asks for any other Board matters. Says there is one thing nagging him, and that is that since he has been on the Board, he has always gotten the Board packet on Saturday ninety percent of the time. He explains that lately he has been getting it on Mondays or Tuesday nights, and that there seems to be inadequate time to review of the Staff’s work and that it is not fair to the public. He says he would like to get back to getting them far enough in advance to do an adequate review. He asks if there is anything they can do about the issue, now that he knows more about the mailroom issue than he did before.

Anna Ehnes: Explains that they do their best to get them done in a timely manner.

Charles Kuether: Says it was helpful that he at least got it electronically so that he knew what was coming.

Anna Ehnes: Asks if everyone would like an electronic copy once it is published.

John Harding: Says he opened his finally, that is the first time he looked at it [on paper versus electronically].

Charles Kuether: Says he doesn’t want to depend on that though.

John Harding: Agrees with Mr. Kuether.

Charles Kuether: Explains that he really wanted on paper because [inaudible].

Anna Ehnes: Says he can still have the copy on paper [inaudible].

John Harding: Says in the future maybe he would note that yes the counties being a little slower than some of the others in the state but would speculate that it would continue to get busier, so that getting the information to the Board in advance might make it so it delays the process for other Applicants. He notes that if they tried to get it done two weeks in advance, the work would not be done yet.

Anna Ehnes: Explains that Mr. Harding is correct.

John Harding: Says the building itself would not benefit the community for a month of delay.

Charles Kuether: Says even with the benefit of more time than most, he does not always have the freedom to spend so much time reading as he did the day prior.

Ken Thornton: Says that was a good experiment for him, he was perfectly happy to go electronic. He mentions he did have to use the public WIFI to look into it, so as long as it is electronically available.

Anna Ehnes: Says yes, they will run it by the Director and she is sure it will be fine.

Ken Thornton: Asks if it will be like the one on the site where it can be clicked on.

Anna Ehnes: Says yes.

Various people: [*Inaudible*].

Ken Thornton: Says it worked well.

John Harding: Says he likes the paper though.

Anna Ehnes: Says he will get one of those too.

Charles Kuether: Says thank you. Asks if there is anything anyone else can think of.

John Harding: Motions to Adjourn.

Charles Kuether: Say thanks to Mr. Cik for showing up.

Joseph Cik: Says absolutely.

Charles Kuether: Asks for a Second.

Ken Thornton: Seconds the Motion.

Charles Kuether: Calls for adjournment.

All in Favor, Motion Carries 3-0.

3. ADJOURNMENT AT 1:15 PM, [02:12:22].