

CASCADE COUNTY
ZONING BOARD OF ADJUSTMENT

12/16/2021

9:00 AM

Hybrid Meeting Format In-Person/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.

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

STAFF ATTENDEES: Kareece Dafoe, Carey Ann Haight, Amber Hobbs, Phoebe Marcenek, Alisha Osborne.

PUBLIC ATTENDEES: Eileen Hyndman, Buster Hyndman, Rae Grulkowski (Online), Jenn Rowell (Online).

1. **CALL TO ORDER:** Charles Kuether called the meeting to order at [09:26 AM] [0:00:50].

2. **ROLL CALL:**

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

BOARD MEMBERS ABSENT: None.

3. **APPROVAL OF THE MINUTES :**

A. Draft Meeting Minutes for July 15, 2021, August 19, 2021, September 16, 2021, October 21, 2021, October 26, 2021. [0:01:26]

1. **Board Discussion & Decision**

Charles Kuether: Says first on the Agenda is meeting minutes from July 15.

John Harding: Motions to approve.

Ken Thornton: Seconds the motion.

Charles Kuether: Calls for a vote.

All in Favor, motion carries [5-0].

Charles Kuether: Says next on the Agenda is minutes from September 16.

Kathryn Hanning: Says she didn't get that, she doesn't think.

Charles Kuether: Says well [inaudible].

Kathryn Hanning: Says she thought you might have [inaudible].

Charles Kuether: Asks if they were finished and says he doesn't have a copy.

Alisha Osborne: Says if they don't have a copy, they weren't finished.

Kathryn Hanning: Says okay.

Charles Kuether: Says it was on the Agenda, but when the revised came out that was eliminated.

Kathryn Hanning: Says she gets that.

Charles Kuether: Says we are on to September 16.

Ken Thornton: Motions to Approve.

John Harding: Seconds the motion.

Charles Kuether: Calls for a vote.

All in Favor, motion carries [5 – 0].

Charles Kuether: Says the next is October 21.

Leonard Reed: Says "so moved".

John Harding: Seconds the motion.

Charles Kuether: Asks for discussion. [None]. Says alright and calls for a vote.

All in Favor, motion carries [5 – 0].

Charles Kuether: Says next is October 26. Says that doesn't make sense. Oh, that's right, we had two that month. Okay, sorry.

Kathryn Hanning: Motions to approve.

Leonard Reed: Seconds the motion.

Charles Kuether: Calls for a vote.

All in Favor, motion carries [5 – 0].

Charles Kuether: Says it's nice to have all those approved.

4. **OLD BUSINESS:** None.

5. **NEW BUSINESS:**

A. *Special Use Permit Applications # 032-2021 & # 033-2021, Submitted by Don Jacobs to allow the use of a Warehouse for stone storage. [0:03:07]*

1. **Amber Hobbs presents the Staff Report.**

2. **Motions Presented:**

A: Move that Special Use Permits #032-2021 and #033-2021 to allow the use of a Warehouse for stone storage on Lots 1 and 2 of the Phillips Subdivision in Section 31,

Township 21 North, Range 02 East, P.M.M., Cascade County, MT, 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#032-2021 and #033-2021 to allow the use of a Warehouse for stone storage on Lots 1 and 2 of the Phillips Subdivision in Section 31, Township 21 North, Range 02 East, P.M.M., Cascade County, MT, subject to the following condition:

1.The Applicant obtains any other required county, state, or federal permits and comply with regulations associated with any other permits.

3. Board Discussion [0:36:56]

Charles Kuether: Asks if there are any questions for the Staff.

John Harding: Says he doesn't think so, maybe after the public comments if he has any.

Charles Kuether: Asks if the Applicant is present.

Amber Hobbs: Says she doesn't believe the Applicant is here unless it is "Rae" online. Ms. Hobbs says she is not sure who that is.

Charles Kuether: Hearing nothing, he says the Board will now proceed to the public portion of the hearing.

4. Public Hearing opens at [10:02 AM], [0:37:30].

Public Proponents: None.

Public Opponents:

Eileen Hyndman of 983 McIver Road: Says she lives just below this piece of property here *[she lifts a map and points to indicate the area]*.

Charles Kuether: Asks if it is just below that parcel.

Eileen Hyndman: Says yes and she would like to share with the Board the views from her house. Mrs. Hyndman says it is one of the few houses out there with a foundation under it. She can see on the North side all the way to the Shelby Hill, past Vaughn. To the west, she can see the *[inaudible]*, extending to the Buffalo Jump. To the south, she can see a mile and a half, until the turn towards the Buffalo Jump. East, she can see all the way up to Collins Road, so when there's a fire she can tell where it is. Mrs. Hyndman says that her view to the north, she is not sure if anybody is aware that that parcel of land is a bit higher than any of the other structures there and a lot of their land is in the flood zone.

Mrs. Hyndman states that she has a copy of the Applicant's first SUP, and that the previous SUP says much the same thing the current SUP says, other than they retrieved their rock from picking it out of farmers' fields, which she finds difficult to believe. Mrs. Hyndman mentions the Applicant's response to picking the rock for more grazing room and said that any time she had done so she got more erosion than grass. She would like the Applicant to be held accountable. She says the Applicant applied for a zoning change on May 9, 2017, from Rural Residential 5 (RR-5) to Agricultural (Ag) and applied for an SUP October 12, 2017. She says they brought up the

issue of the rock splitter or saw and that during the day there is a screaming sound. Mrs. Hyndman says that the Applicant explained that he put padding around to cut down the noise and that it dampened it a little.

Mrs. Hyndman says that she had previously gone before the Planning Board to speak about the decibels and that they would be subjected to the noise from the operation. She says the Applicant has been given time to comply with the issue of decibels from the cutting saw, and November 9 he never came back, so he never got his SUP. She says he must have given up trying to quiet his saws.

Mrs. Hyndman says that at one of the meetings, the Applicant's grandfather stood up and said he was concerned about the trucks about the impact they will have on the road. She says they also take the back road that is gravel and speed along it and hit the end of the blacktop while laden with tons of rock. She says it shakes the houses at the end of McIver Road. Mrs. Hyndman says the rock cutting is not heard unless she is in her master bath. She says she cannot tell the hours of operation, though the Applicant used to operate at three o'clock in the morning. She says the trailer house on the property has a part of the wall missing.

Mrs. Hyndman says there is at least an eighth of a mile of pallets with rocks on the side of the shop and trailer house, with piles of rubbish and they used to burn their pallets. She says she would like to point out that she has no idea where the Applicant plans on putting the warehouse, but she thinks they would be the first ever quarry to store the rock in a building. Mrs. Hyndman says the cargo planes fly very low and she can't imagine why the Applicant needs a building to store rocks in. She says she worries the Applicant will put the cutter in the building and that it will be like a bullhorn in a valley, as a building enhances the decibels. She says the Applicant has been operating without a SUP for five years with no recourse and is an offsite owner and has no addresses and no name and wonders how they can get fire protection. Mrs. Hyndman speaks at length about the issues previously mentioned.

Charles Kuether: Says he has a couple questions about what Mrs. Hyndman mentioned about pallets behind a trailer on the Applicant's property.

Eileen Hyndman: Says the map isn't very good.

Ken Thornton: Says you can see pallet storage here.

Various Board members: [Inaudible].

Eileen Hyndman: Says she can show the Board on here *[indicates area on map]*.

Charles Kuether: Says he guesses his question is whether the pallets have rocks stacked on them.

Eileen Hyndman: Says yes. They are all loaded.

Charles Kuether: Says that is what his question was because Mrs. Hyndman was talking about empty pallets burning earlier, so he wondered if they were pallets that were going to be burned.

Eileen Hyndman: Says they used to throw their old pallets out back and burn them. She says they used to have a bunch of pallets in front of the shop in the driveway. *[A map is pulled up on screen and shows the subject area]*. Mrs. Hyndman says the pallets are loaded with rock *[she steps up to the map on screen and indicates the area]*.

Charles Kuether: Asks if that is the higher area on the property.

Eileen Hyndman: Says yes, everything on that side of the shop [gestures to indicate the section] is all floodplain and that is the extent of the Applicant's property so there is not a lot of area to farm. She says it has been this way since 2017 or before.

Charles Kuether: Asks if anyone else had questions.

Leonard Reed: Asks how big the lot is and whether it would wear out and go away.

Eileen Hyndman: Says no, the Applicant said it was from various ranchers and farmers and now he says ranchers but doesn't say he was picking it up out of farmers fields, which is what the Applicant said in the first SUP. She says it has to be south of town where there are a few quarries. She says the Applicant brings the rocks here from Billings and calls it a hub. Mrs. Hyndman says the Applicant brings the rocks, stores them and cuts them and then ships it out.

Leonard Reed: Asks Mrs. Hyndman if the rock does not come off the Applicant's property, it gets hauled in, worked on and shipped out.

Eileen Hyndman: Says yes.

Charles Kuether: Asks if there is anyone else. [Silence]. Mr. Kuether thanks Mrs. Hyndman.

Leonard Reed: Asks Mrs. Hyndman to show the Board where she lives in relation to the Applicant.

Charles Kuether: Says she is directly south of the Applicant.

Eileen Hyndman: Says "right here" and points to the area on the map.

Leonard Reed: Says okay, he was wondering if that was Mrs. Hyndman's property.

Eileen Hyndman: Says yes, and there was a neighbor who passed away.

Leonard Reed: Asks if the other neighbors who live there have complaints.

Eileen Hyndman: Says they all did, mostly because of the cutting rock and one truck driver who used his jake brakes going down the road. One of the neighbors has horses and Mrs. Hyndman says she could feel the vibration on some of those trucks hitting the pavement.

Leonard Reed: Asks if Mrs. Hyndman would be kind enough to point out where the pavement ends and the gravel begins.

Eileen Hyndman: Says it is right here [points at junction of Mclver Road and Ulm Vaughn Road]. All of this [Mclver Road] is blacktop.

Leonard Reed: Says thank you.

Charles Kuether: Asks if there is anyone else, and thanks Mrs. Hyndman.

Eileen Hyndman: Says unless they can make something with the rock cutting because it doesn't belong on top of the hill, or it will be like a big tunnel.

Charles Kuether: Says it will be like a big megaphone.

Eileen Hyndman: Says exactly.

Charles Kuether: Says "Second call for people who are opposed to".

Buster Hyndman of 983 Mclver Road: Says he will just touch on traffic and noise. He says the trucks warm up in the morning before heading out, so it is a quarter to five when they start. They idle the trucks and then hit the road heading south towards Ulm and they shift trying to increase the speed to get up the hill and it gets a lot of vibration and there is a lot of noise.

Charles Kuether: Says it is a built-in alarm clock that Mr. Hyndman didn't necessarily want.

Buster Hyndman: Says he spent years in construction getting up early. He says his bedroom is on the West, so you get all the noise and the dust from hitting the dirt and gravel. He says the house is dusted every day.

Charles Kuether: Asks for confirmation that the trucks start running around quarter to five in the morning.

Buster Hyndman: Says they are up and running, idling their trucks, they have to warm them up [*nods his head in affirmation*].

Charles Kuether: Asks if this is year-round or seasonal.

Buster Hyndman: Says it is year-round.

Charles Kuether: Says he thought it would be more seasonal since it's a construction business.

Buster Hyndman: Says it is just like a highway through there but it's not blacktop, there's no speed limit, they can do seventy miles an hour on that road. There are a lot of sharp corners where they slow down but as soon as they get a straight shot, they just go for it.

Leonard Reed: Asks if it is across from Sun Prairie Addition across the Sun River to the West.

Buster Hyndman: Says it is North of there.

Leonard Reed: Says and then it is across that bridge.

Buster Hyndman: Says they are in between two highways, the fifteen and Ulm. It is blacktop from fifteen to the First People's Buffalo Jump visitor's center.

Charles Kuether: Asks if they hitch and go over the river and hit Vaughn Road.

Buster Hyndman: Says most of them are coming from Ulm.

Leonard Reed: Expresses surprise that they are coming from Ulm.

Buster Hyndman: Says they are going South on that road. There are about seven miles of that road where it is kicking up the dust.

Charles Kuether: Says thank you.

Buster Hyndman: Says they are out there after every rainstorm with a grader, grading.

Leonard Reed: Says that would be a tremendous amount of asphalt, and that it would be worse.

Buster Hyndman: Says that that's all the end of McIver Road and needs to be re-done. The trucks going up and down and hauling gravel on that road.

Charles Kuether: Says thank you to Mr. Hyndman for the comment.

Buster Hyndman: Says that is all he has got.

Charles Kuether: Says "third call for opponents".

Public Hearing closes at 10:27 AM.

5. **Board Discussion & Action: [1:02:13]**

Charles Kuether: Asks if there is any questions or comments for the Board.

Ken Thornton: Says from what he understands is this is just a warehouse, any cutting or splitting rock isn't allowed.

Amber Hobbs: Says that is correct.

Ken Thornton: Says they shouldn't be splitting rocks at all, just storage.

Amber Hobbs: Says that's correct, their SUP for a quarry was denied, so this SUP is just specifically for use of a warehouse so there are no new structures or buildings going in.

Charles Kuether: Asks if it is use of the existing warehouse.

Amber Hobbs: Says it is going off the use of the Cascade County Zoning Regulations definition of a warehouse, which could be a building or a portion of a property, so it doesn't technically have to be a structure.

Leonard Reed: Says [inaudible] there is no structure there.

Amber Hobbs: Says there is a structure there that they do use, but with the definition of a warehouse, it permits them to store the stones outside. Ms. Hobbs says that this use for the warehouse has nothing to do with cutting, quarry, or manufacturing of the rock.

Ken Thornton: Says okay.

Charles Kuether: Asks if the Applicant understands what he is applying for, as Mr. Kuether gets the feeling at least two or three times in the application that the Applicant thinks he is applying for a zone change or something else he isn't getting. He asks if he is missing a piece of the puzzle.

Amber Hobbs: Says that is a really good question for the Applicant. She says the Applicant was sent two emails inquiring whether they would be attending the meeting.

Kathryn Hanning: Says the way she reads it, even if he moves it out to the field, the Applicant cannot put a cutter out there and it sounds like it is happening anyway.

Charles Kuether: Says it sounds as if the Applicant is in violation to start off with and the Board shouldn't be giving him anything until he comes into compliance.

Kathryn Hanning: Says she thinks that is what he is trying to do with the warehouse, was to bring it into conformance but the rest of it [inaudible].

Charles Kuether: Says it would not stop the cutting.

Kathryn Hanning: Says no, it wouldn't.

Charles Kuether: Says it sounds like until he stops the cutting [*is interrupted by Mr. Harding*].

John Harding: Says it seems like the Board is more into a debate instead of discussion after a motion is made rather than the question to the staff.

Charles Kuether: Says okay.

John Harding: Says he has some comments he would like to make as well, but he is going to move [*he searches through papers*].

Kathryn Hanning: Says they have to have a motion in order to discuss it.

Charles Kuether: Says here is [inaudible].

Ken Thornton: Says he wanted to make sure [inaudible].

Kathryn Hanning: Says she just wants to [inaudible].

John Harding: Says "I Move that the Board to adopt the Staff Report in its entirety with Findings of Fact and approve Special Use Permits#032-2021 and #033-2021 to allow the use of a Warehouse for stone storage on Lots 1 and 2 of the Phillips Subdivision in Section 31, Township 21 North, Range 02 East, P.M.M., Cascade County, MT, subject to the following condition:

- 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 to the Motion.

Leonard Reed: Seconds the motion.

Charles Kuether: Says okay and asks for a discussion.

John Harding: Says there are a lot of complaints and he is sure all the surrounding property owners have the same complaints, as it sounds like the gentleman that operates the business has not been in compliance [inaudible]. Regardless, there is nothing the Board can do to fix the bad property owners in the world. Mr. Harding says he relies on what he believes to be a good set of guidelines for what the Board can and cannot allow on this piece of property. Allowable use includes a storage warehouse and it doesn't matter if it is for stone or any other thing, it is a storage warehouse which is an allowable use on that property. The traffic and noise are an unfortunate byproduct in areas and issues will work themselves out as the area develops. Mr. Harding says that with this person out there not doing the right thing, you get code enforcement out there and make sure they are doing the right thing, but he is voting in favor of this motion.

Charles Kuether: Asks if there is any other discussion.

Ken Thornton: Says he sees it as voting for the storage warehouse and asks for clarification that they are not agreeing to the cutting stone.

Kathryn Hanning: Says he is not building a warehouse, he is just bringing himself into compliance for the warehouse for storage.

Ken Thornton: Says for storage.

Kathryn Hanning: Says storage only, no cutting. There is also the seven to five on the Application for hours [of operation], so Ms. Hanning says she would be in favor of the storage.

Charles Kuether: Asks Mr. Reed if he has thoughts on the matter.

Leonard Reed: Says he has a little problem with the trucks going at three o'clock in the morning and the truck traffic on that road and thinks that if the Applicant puts the cutting somewhere else it would stop the traffic.

Kathryn Hanning: Says he is not allowed to cut there at all.

Charles Kuether: Says if he wasn't cutting there, then what he was applying for is fine. The problem seems to be lack of enforcement of cutting.

Kathryn Hanning: Says the Board has no jurisdiction over that, that is code enforcement.

Ken Thornton: Says he could apply for a quarry again if he wanted to.

Charles Kuether: Asks Ms. Haight what can be done to bring him into compliance with the problem the board can't enforce.

Carey Ann Haight: Says code enforcement would need to go out there. Based on materials for the board, there was a complaint and when planning went out with code enforcement, they found no junk vehicles or cutting operations going on. Ms. Haight says complaints must be substantiated before it can be pursued. There needs to be confirmation of what is going on.

Charles Kuether: Asks if there is any other discussion on the motion. Mr. Kuether calls for a vote.

All in Favor, motion carries [5– 0].

Charles Kuether: Says [*to Mrs. Hyndman*] if she can find a time the Applicant is actively out there cutting or breaking or doing things that are not permitted.

Eileen Hyndman: Says they did go out there but sat at the intersection of Ulm Vaughn and McIver Road and looked up there, and that is why they couldn't see the old junk cars and stuff up there.

Leonard Reed: Asks if all that is still there.

Eileen Hyndman: Says yes.

Ken Thornton: Says you can have junk cars on your land.

Carey Ann Haight: Says there is a certain limit on how many you can have. There are certain limitations that the government has when it comes to private property and recourse by the government.

Charles Kuether: Says that is the best the Board can offer. The Board cannot do anything specifically to help, but the enforcement people can help.

Eileen Hyndman: Says it has been going on for years.

Buster Hyndman: Says they will just have to sue them.

Charles Kuether: Says he is afraid he cannot offer a solution to that.

Buster Hyndman: Says [*inaudible*] pushes them out of residential and into the county [*inaudible*] residential.

Eileen Hyndman: Says they do anything they want and they don't have to have addresses or anything.

Kathryn Hanning: Says they do have an address. It is 795 [*is interrupted by Mrs. Hyndman*].

Eileen Hyndman: Says it is not listed.

Kathryn Hanning: Says it is in the legal documents, she is helping Mrs. Hyndman *[laughter]*.

Eileen Hyndman: Says they used to have a rock up there that listed the address and she has told them to move it as she was tired of people stopping at the Hyndman's house asking them where the Venture Stone is. The other place has nothing that says what the place is or lists the address or anything. Mrs. Hyndman says that she would point to the rocks and tell inquirers that was the location. Mrs. Hyndman says it is ridiculous. She says that she has contacted rock cutter sales and asked how loud they were and did not get an answer. She says that people don't complain out there as it doesn't do any good.

Charles Kuether: Says he is afraid it is a squeaky wheel issue; if no one complains then the enforcement officers cannot help. But complainants need to step up and enforce their right.

Eileen Hyndman: Says she noticed there was a difference in objective between one statement and another one, where it says different and conflicting things, and he would move it out in the field.

Charles Kuether: Says whether they move it out in the field or not they are not allowed to do it. If the complainants have photos, recorded noises those are options they have with the enforcement people. For example, if they can be provided recordings or photographs, they don't necessarily see it that day, but they know it is occurring so they can assist in solving the problem.

Eileen Hyndman: Says she understands, and she provided photos with another issue she had.

Charles Kuether: Says he wishes Mrs. Hyndman well, and hopes the issue goes away.

Eileen Hyndman: Says he is doing it so he could care less.

Charles Kuether: Says they might be able to change that.

Eileen Hyndman: Says the Applicant said he has a huge cutter in Billings for massive rocks and sends the smaller ones up here depending on where they are taking them.

Charles Kuether: Says the Board is closing that part of the hearing.

6. BOARD MATTERS [1:17:16]

a. Discussion on draft letter to the Cascade County Planning Board concerning zoning second dwelling units.

Charles Kuether: Says he did this not to point the Board in one direction or another, but as a result of the last meeting, Mr. Kuether wonders if the Board is happy with the rules and regulations they are bound by and whether they would like to ask the Planning Board to revise the regulations. Mr. Kuether states that is his purpose in writing and wants to know if that is of interest to the Zoning Board. He asks if there are comments.

Ken Thornton: Says he is in favor of this for the simple idea that the duplex idea, the townhouse is a loophole that he doesn't think should exist. Mr. Thornton says the idea that a developer can go out and set up a development of thirteen lots of single-family homes and come back later and get a SUP and turn all thirteen into duplexes. At that point they have doubled the occupancy of the

development which is designed with a certain population density in mind. SR-1 has one family per acre, SR-2 is one family per two acres and SR-5 which is one family per five acres. He says he believes that population density is an aspect they were sold with and the SUPs for doubling occupancy is going beyond what the Planning Board has in mind. Mr. Thornton says he likes the old Montana way of having land and bringing out a trailer to put granddad in, which is what he always thought adding a second dwelling to a lot was about.

Kathryn Hanning: Asks if she can ask the attorney. Addressing Ms. Haight, Ms. Hanning asks whether it was prudent for the Board to discuss this, as they were only supposed to look at the finding of fact and make the decisions that way. Ms. Hanning asks whether someone could potentially come and say the Board has limited their ability to obtain a SUP due to predisposed thought.

Carey Ann Haight: Says she doesn't see a problem with the Board having this discussion though when these projects come before the Board, when they are evaluating, they must consider the regulations before them and then make a decision based upon those factors.

Kathryn Hanning: Says she wants to make sure they are not crossing any of the [inaudible].

Carey Ann Haight: Says she doesn't see it as a problem and ultimately this Board isn't the deciding factor on the regulations. Ms. Haight says that what the Planning Board does and doesn't do in terms of a recommendation for the Commission is beyond this Board's control.

Kathryn Hanning: Says she wanted to make sure the Board wasn't....

John Harding: Says it seems to him that when looking at the zoning regulations, they are clear on what can and cannot be done with property. He says when Cascade County decided to apply county-wide zoning, they tried to allow flexibility in land use, so when agriculture becomes industrial or residential, that is what all these documents are for. Mr. Harding says he sees them written, one would have to have the special use permit to allow for a second dwelling, and it makes sense because in the development process it is the person who owns that piece of property who says what is built on it, they are held to it. Mr. Harding asks whether when someone asks for a subdivision approval if they can ask at that point to have multi-family housing in advance or must it wait for a SUP.

Amber Hobbs: Says there is a spot in the applications where you can note if it will be single-family or multi-family homes, and it has been seen before.

Kathryn Hanning: Says they just heard the Foothills SUP, and they listed townhomes in one of them.

John Harding: Says it is in one of them, and that in one of the phases they allow for in the covenants, that type of project and it is their piece of property. Their rules they have to follow are the same as any other single-family unit as far as drain fields, septic, wells or whatever they are doing in that situation. All throughout America, we all know that there isn't any more land being made, but there are more people, who have to have places to live. Housing affordability is at the forefront of almost every discussion in America right now. It is leading inflation, but the cost of

housing has accelerated to a point that almost no one in the working class can afford to build or buy a house, it is just getting that bad.

Mr. Harding says one of the ideas behind duplex-type properties is they allow it to be more affordable for people to be able to live. It has nothing to do with a developer trying to make more or less money on a project. They are building what people want; if people didn't want them, they couldn't sell them. They have to have a reason to build, and the reason has to do with affordability of housing. Mr. Harding says he would love to not have to hear fourteen SUPs for what is going to be approved townhouses, he wishes he could roll them up *carte blanche* and say they all follow the rules, but there must be a forty-five-minute discussion for each one of them. He thinks there might be a better process for that one.

Carey Ann Haight: Asks if she might add that the other factor that this Board is able to do for SUP is to evaluate the impacts and mitigate those issue that the neighbors are complaining about so long as mitigation is pertaining to that particular issue.

John Harding: Says that was one of his thoughts when he was making some notes there. He says at least they get to look at it and it is better that they do look at them.

Leonard Reed: Says every piece of property is different; some have water, some have views, but usually every piece of property has a restriction because of the neighborhood or the topography. That is the reason for this committee, because every property is individual.

John Harding: Says the topic is not exclusive to what they are doing here, the legislation had tried to unify what is going on throughout the counties and municipalities of Montana. Mr. Harding says he appreciates Mr. Reed's comments, but the issue will continue to be around.

Ken Thornton: Says we are not Bozeman, not Missoula, we've got plenty of land and won't have to double up, but the main point in planning is that the infrastructure for SR1, SR2 and SR5 are determined by population density. All the work that has been done is thrown out the window when we come back, and all the planning has been done and we double it. The idea of population density needs to be done at the planning stage when they set out the Plat. The Planning Board needs to do that, not the Zoning Board of Adjustments. Duplexes need to be done there [*points across the room*], not here. To bring in a mother-in-law house for a relative, that has always been a Montana way. I thought that that was what this is for.

Kathryn Hanning: Says by saying that you are also saying you are adding more to the population, because a mother-in-law is "population", and chances are the brother who doesn't work lives there, too.

Ken Thornton: Says it is not the developer coming in to do six of them, though. It is one individual, and Mr. Thornton would recommend a minimum of a thousand square feet for a second dwelling. That would really limit that to a mother-in-law, not another house that could fit ten people in it.

John Harding: Says it is definitely heavily debated, we are having trouble everywhere, not just here.

Ken Thornton: Says we've got land here.

John Harding: Says it is not exclusive to us, and that one idea of adding a mother-in-law or a secondary structure and limiting the size can snowball. Mr. Harding asks at what point can a property not be used as an airbnb, cannot be used as a vacation home, and when can someone not move a daughter and husband and three kids into the house. The issue is complex.

Kathryn Hanning: Says a nursing home could be added in this area without going through the SUP process and that would increase the population.

John Harding: Says he wouldn't be in favor of passing a letter on to the Planning Board simply because the discussion is going to be held throughout the community over a period of time and if the community doesn't desire to continue with the current land development code, then the community can express that to the Planning Board if they are not satisfied with it.

Kathryn Hanning: Says yes.

Ken Thornton: Says he has been on the Planning Board and they have done a lot of changes, with small zoning to change something that wasn't working right. Mr. Thornton provides examples on zoning changes the Board has made. He says zoning changes have been done to adapt to what the public wants.

John Harding: Says yes, the public hearing process.

Ken Thornton: Says "exactly".

Kathryn Hanning: Says she is not in favor of the letter.

Ken Thornton: Says a lot of times they do it without a public hearing process.

John Harding: Says he doesn't know that Mr. Thornton should say that.

Kathryn Hanning: Says she doesn't think they need a letter, she thinks the public needs their time to speak before the Planning Board, and Mr. Thornton as a member of the public, could certainly privately speak to the Planning Board about his concerns. Ms. Hanning says she would not be in favor of sending a letter to the Board, as she doesn't like some of the verbiage as it sounds as if it alludes to unethical content on the developers' part and she wouldn't be for that, even though she knows it is not Mr. Thornton's intent. She believes private citizens should address the Board if needed and that it is part of the process.

Charles Kuether: Says he agrees with Mr. Harding about the pricing pressure, but the ones the Board was hearing was not a product of that.

Kathryn Hanning: Says yes.

Charles Kuether: Says that some people cannot afford a place to stay.

Kathryn Hanning: Says she doesn't think that is what a townhouse is for, however, it is private property and the property owner has rights. Ms. Hanning thinks the townhomes are more for people just starting out in a home or retiring so the price point works for them. There isn't a lot of land; just because something is empty doesn't mean it is for sale. It may be for a future use or perhaps nothing is on it because that is the owner's right.

Charles Kuether: Asks if there are any other thoughts.

Ken Thornton: Reiterating his initial thoughts on this matter.

Charles Kuether: Says it doesn't sound like they are going to be sending a letter from the Board.

Ken Thornton: Says okay.

b. Tentative 2022 ZBOA Meeting Schedule

Charles Kuether: Says the last item on the agenda is the proposed schedule for the next year, it's the same thing as last year, the Board will adopt it a year in advance so they can plan ahead. What the Board did last year was looked at it, and if people thought it was acceptable, we had a motion to approve the schedule so that is what will be done.

Ken Thornton: Says he thinks it's good.

Kathryn Hanning: Says yes.

Leonard Reed: Say he appreciated getting that schedule in the mail from the office and others will, too.

Kathryn Hanning: Asks if they need a motion to approve.

Charles Kuether: Says yeah, he thinks that is what they are trying to do.

Kathryn Hanning: Motions to approve the schedule.

Charles Kuether: Says they have a motion and asks if there is a second.

John Harding: Seconds the motion.

Charles Kuether: Calls for a vote.

All in Favor, motion carries [5 – 0].

John Harding: Says he will be gone for the February and March meetings. He says he is not saying he will not be "Zoom" available, but he will be in Costa Rica.

Charles Kuether: Asks if there is something politically he is dodging. [*Laughter*].

John Harding: Says his schedule has him gone that week in February and that week in March.

Charles Kuether: Says to have a beer for us. Asks if there are any other public comments or matters.

John Harding: Moves to adjourn.

Charles Kuether: Asks for a second.

Leonard Reed: [*Raises his hand and nods*].

Kathryn Hanning: Says she seconds it.

All in Favor, motion carries [5 – 0].

7. Adjournment at 11:04 AM, [1:38:56]

DRAFT