

**STAFF REPORT
ZONING BOARD OF ADJUSTMENT**

Thursday, May 19, 2022

9:00 a.m.

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

SUP #006-2022

SUBJECT PROPERTY INFORMATION	
Name of Applicants	Missouri River Trucking & Excavating PO Box 538 Black Eagle, MT 59414
Name of Owners	Griffen Ranch LLC PO Box 85 Fort Shaw, MT 59433
Legal Description:	S ½ of the S ½ of the NE ¼ of the SE ¼ of the NW ¼ Section 07, Township 20 North, Range, 01 West,
Geo- Code:	02-3012-07-2-04-01-0000
Parcel Number:	4534600
Existing Zoning:	Mixed-Use 20 (MU-20)
Requested Action:	Approval of a Special Use Permit to allow a Quarry on the subject property.
Surrounding Land Uses/Zoning:	North: Residential and Agricultural/MU-20 South: Residential and Agricultural/MU-20 East: Agricultural/MU-20 West: Residential & Agricultural/MU-20
Current Land Use:	Agricultural
Applicable Regulations:	Sections 7.6.11(35), 8.1.5 10, Cascade County Zoning Regulations ("CCZR")

General Information:

The Cascade County Zoning Board of Adjustment ("ZBOA") is in receipt of a Special Use Permit ("SUP") Application from Eric Urban on behalf of Edwin & Margaret Birky to allow for a Quarry on the Subject Property. The Applicant is requesting that a SUP be granted as required by Sections 7.6.11(35) of the CCZR. The standards set forth in Section 10 of the CCZR are applicable to Special Use Permits. Notably, this property is not known to be in violation of the CCZR or any other County ordinances, and county taxes are current.

Legal Notice of the Application and the public hearing was published in the Great Falls Tribune on May 8, 2022, and May 15, 2022 and mailed to adjacent property owners and interested agencies, via certified mail, on May 3, 2022.

Findings with Respect to the Analysis Criteria

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

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

Considerations:

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

Applicant: Site is in a rural area next to an existing mining operation where there is very little public access or traffic. New operation will have minimal impact to existing traffic conditions as this is not our primary gravel mine.

Staff: Access to the subject property will be from Knapstad Road. This is a publicly maintained road, maintained by Cascade County. The proposed quarry is not the primary gravel operation operated by MRTE. The gravel will be hauled from the proposed location to the main site. MRTE currently operates a fleet of 8 trucks and does not anticipate all 8 trucks hauling gravel in one day. The site will not be operated full time and therefore, a large increase in traffic is not anticipated.

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

Applicant: There are no utilities at this site. All equipment is run by fuel.

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

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

Applicant: Soil berms will be used to keep run off contained within [the] site.

Staff: The applicant will need to obtain an Opencut Mining Permit from the DEQ. At the time of this report, no indication has been given regarding the erosion and sedimentation of the subject property. The project falls outside of the MS4 Stormwater Permit boundary. Condition #1 is proposed to require any and all state required permits to be obtained by the applicant.

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

Applicant: There is no water supply or well at this site. This operation will not adversely effect surface or ground water.

Staff: Best management practices will need to be installed to ensure that no private water supply may be effected by the quarry (See Condition #1).

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

Considerations:

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

Applicant: The operation of the proposed mine will not effect the adjoining property since it is also being used to mine gravel.

Staff: There are adjacent properties to the north, south, and west that are currently used for residential purposes. Mititgation of noise, dust, and vibrations will be vital in resolving the conflicts between the different uses (See Conditions #3, #4, #5).

- 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: The operation of the proposed mine will not effect the adjoining property since it is also being used to mine gravel.

Staff: The location of the proposed quarry is approximately ½ a mile to the closest residence and 0.86 of a mile away from the further residence. However, this use is not so necessary to the public health and safety of the community or county to justify it regardless of its impact on the value of adjoining property.

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

Considerations:

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

Applicant: *Yes, the operation of the proposed mine will not effect the adjoining property since it is also being used to mine gravel.*

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

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

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

Applicant: *The operation of the proposed mine will not effect the adjoining property since it is also being used to mine gravel.*

Staff: The proposed use is consistent with the Cascade County Growth Policy.

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: *We currently supply sand and gravel to the Great Falls community from our Sun River gravel site. This site will expand customer base to the Simms community.*

Staff: The proposed quarry will offer natural resource product to the Simms/Fort Shaw area. The sand and gravel could assist development of the area. Sand and gravel use is mainly utilized in the construction industry.

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

Applicant: *The gravel mine will be used for development for building community roads and buildings.*

Staff: The tax base for Cascade County could be increased and diversified due to this use.

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: Gravel materials are necessary for building and maintaining structures and roads in Cascade County. This industry creates well paid jobs for its workers.

Staff: The proposed use will not negatively affect businesses in Cascade County.

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

Applicant: Gravel materials are necessary for building and maintain structures and roads in Cascade County. Which are necessary to develop tourism in Cascade County.

Staff: For this particular use to promote tourism and cultural resources, material would be provided for improvements to any roads and trails that could increase the amount of traffic to the cultural and tourism sites.

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

Applicant: Gravel materials are necessary for building and maintaining structures and roads in Cascade County.

Staff: The use of this property could promote entrepreneurarship by providing the material to be used on the entrepreneur's project site and or aid in construction.

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: Gravel materials are necessary for building and maintaining structures and roads in Cascade County.

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

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

Applicant: This additional gravel operation will enable us to supply gravel to the area at a more reasonable cost to the business and residence in a more rural part of the county.

Staff: Wages earned by employees for MRTE would most likely be spent within Cascade County. There is the potential for the employees and the rest of the staff to spend money at local businesses. There is also the machinery servicing aspect that may promote local businesses.

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

Applicant: Gravel materials are necessary for building and maintaining structures and roads in Cascade County.

Staff: The Highway 200 coordidor could benefit from the location of the proposed quarry. The transportation costs of the material may be kept lower due to the proximity to the highway.

I. Encourage the growth of the agricultural economy.

Applicant: Gravel materials are necessary for building and maintaining structures and roads in Cascade County.

Staff: The site is currently classed as agricultural land by the Department of Revenue. A portion of the site proposed for the quarry is considered farmland of statewide importance (See USDA Web Soil Survey).

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

Applicant: Gravel materials are necessary for building and maintaining structures and roads in Cascade County, including wind energy.

Staff: This project does not propose the use of any alternative energy source.

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: When the mining operation is complete the mining area will be returned to its current use of cattle grazing.

Staff: According to the USDA Web Soil Survey¹, the Subject Property has a portion of the area (47 acres) considered farmland of statewide importance. The site location is approximately 81 Acres. The soil is Evanston clay loam. This clay loam area is well drained and is slow to rapid run off, per the USDA Soil Series². The tend to thrive as irrigated crop land, rangeland, and wildlife habitat. However, once the excavation use has discontinued, the parcel will be reclaimed per the regulations of the DEQ. The use of the subject property will not have an effect on neighboring agricultural uses.

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

Applicant: *Wildlife continue to use the land during and post mining.*

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

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

Applicant: *Once the gravel reserves are exhausted, the mining areas will be returned to grazing purposes.*

Staff: The subject property is located 1.82 miles Southeast of Fort Shaw, 6.77 miles East of Simms, and 3.86 miles from Sun River, as the crow flies. The parcel currently has two pole frame buildings on the property but is mainly open, undeveloped space. Once the use has ceased, the area shall be reclaimed to the open ag space it was prior to the quarry being placed on the property.

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

Applicant: *Our gravel operation is regulated by the DEQ air quality permitting. All equipment is operated within that permit.*

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

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

¹ <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>

² https://soilseries.sc.egov.usda.gov/OSD_Docs/E/EVANSTON.html

Applicant: We are a [supplier] of gravel thru the mining on this site.

Staff: The proposed use will utilize existing natural resources within Cascade County.

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

Applicant: We would supply gravel if needed for these projects. This property is not located in or near a superfund or Brown[s]field designated site.

Staff: The subject property is not located in a known Superfund or Brownsfield site.

Goal 3: Maintain Agricultural economy

- A. *Protect the most productive soil types.*

Applicant: We are required thru our DEQ Opencut permit to maintain stockpile of topsoil for the purpose of reclamation and eventually resseeding native grass to the are[a] disturbed by mining.

Staff: According to the USDA Web Soil Survey, the Subject Property has a portion of the area (47 acres) considered farmland of statewide importance. The most productive soil type on the property will be affected by the use. The applicant will need to ensure best management practices to certify that the most productive soil types can be reclaimed once the use has ceased.

- B. *Continue to protect soils against erosion.*

Applicant: When the mining areas are reclaimed, there will be no slopes greater than 3:1. This is included in ourc reclamation plan and submitted to the DEQ.

Staff: The Planning Department does not anticipate a significant effect on soil erosion from the placement of the quarry on the subject property. The Subject Property is approximately 438.190 acres, and contains well draining soils. If more than one acre is disturbed during construction, a General Permit for Storm Water Discharges Associated with Construction Activity will be required by the Montana Department of Environmental Quality (see Condition #1).

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

Applicant: The site is not [in the] floodplain area.

Staff: The location of the subject property is not in a regulated floodplain area³ and therefore will protect the floodplain from non-agircultral development.

³ Subject Property is located in Zone D based on FIRM Panel No. 30013C0250E.

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

Applicant: Gravel is used to maintain and expand roads used in the agricultural industry in Cascade County.

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

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: MAFB uses gravel to maintain and expand access to facilities.

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

Applicant: If MAFB were to expand their mission, gravel would be necessary to construct and expand facilities.

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

Applicant: If MAFB were to reactivate their runway, gravel would be necessary to construct the runway.

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

Applicant: This mine is located outside the area where MAFB would or could use for future development.

Staff: The placement of the subject property will not negatively affect military presence. The placement of the subject property is not within a Military Overlay District which restricts the height of any structures. This use does not propose any new structures. 1. The subject property is not located within 2,400 feet of a Missile Alert Facility or Launch Facility.

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: The locations is located far from the city limits of Great Falls and would not affect the eveolving economy or changing population.

Staff: The proposed use will have little impact on governmental intervention to the adjacent property owners, and shall have little impact on the citizens independent 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: No cultural, historical or archeological areas have found on this site.

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: This area has been stripped of grass and is not susceptible to fire. All of our equipment and vehicles are equipped with fire suppression and inspected annually.

Staff: The proposed subject property will be serviced by the Fort Shaw Fire Department, and is considered having a low risk terrain/fuel hazard not located in the Wildland Urban Interface⁴.

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

Applicant: Gravel materials would be used to develop such facilities during the construction phase. H

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

⁴ Based on the Community Fire Plan Wildland-Urban Interface Cascade County and Dearborn FSA Map.

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

Staff: The application will likely not have a negative impact on 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 subject property regular working hours will conclude at 7:00 PM to prevent conflicts with residential uses, a water truck will be utilized to mitigate dust build up. No sight obscuring measures were proposed by the applicant.

Motions:

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

- A. Move that Special Use Permits #006-2022 to allow a quarry on the subject property on Parcel #4534600, be **denied** due to (*Board must make findings delineating the legal reason for denial*); or
- B. Move the Board to adopt the Staff Report in its entirety with Findings of Fact and **approve** Special Use Permits #006-2022 to allow a quarry on Parcel #4534600, subject to the following conditions:
 - 1. The Applicant obtains any other required county, state, or federal permits and approvals, and comply with the laws, rules, regulations, and/or ordinances associated with any other permits and approvals.
 - 2. Applicant obtains an approved Subsurface Wastewater Treatment System Permit from the City-County Health Department prior to installation of any wastewater treatment system.
 - 3. Operations hours shall be limited from 7:00 a.m. to 7:00 p.m.
 - 4. In the case of an open excavation there shall be a substantial fence, suitable gates, completely enclosing the portion of the property which the excavation is located in, and such fence shall be located at all points forty (40) feet or more from the edge of excavation.
 - 5. 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.
 - 6. In the case where excavation activity is discontinued, the excavation shall be restored in accordance with Open Cut Mining Reclamation guidelines (see MCA § 82-4-400, *et seq*).

Attachments:

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

cc: MRTE Inc & Griffen Ranch LLC