CASCADE COUNTY
ZONING BOARD OF ADJUSTMENT
1/20/2022
9:00 AM
Hybrid Meeting Format-In Person/Zoom Online Video Meeting

Board Members: Kathryn Hanning, John Harding, and Ken Thornton.

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: Kevin Angland, Kareece Dafoe, Amber Hobbs, Phoebe Marcinek, Alisha Osborne, and Charity Yonker.

PUBLIC ATTENDEES: Kyle Edwards, Matt Graf, Archie LaFurge, Wade Lawrence, Brian McGeehan (online), Jenn Rowell (online), Jack Topper.

1. CALL TO ORDER: John Harding called the meeting to order at [09:00 AM] [00:01:16].

2. ROLL CALL:
   
   BOARD MEMBERS PRESENT: Kathryn Hanning, John Harding, Ken Thornton ¹
   
   BOARD MEMBERS ABSENT: None

3. APPROVAL OF THE MINUTES:

A. Draft Meeting Minutes for December 16, 2021 & August 19, 2021 [00:02:02].

   1. Board Discussion & Decision

      John Harding: Says under minutes, we have Draft minutes for the December 16, 2021 meeting. He asks if that is the only set.
      Charity Yonker: Says there are also the August 19, 2021, minutes.
      John Harding: Says okay.
      Charity Yonker: Says these just came in late.
      John Harding: Says okay.
      Kathryn Hanning: Motions to approve the minutes.

   ¹ Lenard Reed was present for a portion of the meeting, but his Board term expired on December 31, 2021, and had not been reappointed by the Board of County Commissioners at the time of this ZBOA meeting.
Ken Thornton: Seconds the motion.

John Harding: Calls for a vote.

_all in favor, motion carries [3 – 0]._

4. **OLD BUSINESS:** None.

5. **NEW BUSINESS:**

A. **Board Election of Officers [00:02:44].**

1. **Board Discussion [00:02:49].**

   John Harding: Says we have the election of officers and that he would like some discussion about that now. He says Mr. Kuether is not on the Board anymore and he doesn’t know that there are any Board applicants yet.

   Charity Yonker: Says we do have a few. _[An interruption is heard from the online portion of the meeting]_. She says sorry about that...the Commissioners will be appointing at least one to the Board most likely on January 28th. She explains Mr. Reed’s term has also expired and he has not been re-appointed, so she thinks he will be re-applying as well. She states that the Commissioners haven’t yet taken action to appoint vacancies at this time.

   John Harding: Says okay and asks if it would be appropriate to have election of the Chairman and the Vice Chair or wait for a month.

   Charity Yonker: Says the Board can do either and that if they wanted to have all five available and have the election then they could postpone until next month.

   John Harding: Asks what the Board would like to do.

   Ken Thornton: Says that sounds good to him.

   Kathryn Hanning: Agrees.

   John Harding: Says that is what we will do. He explained this happened last year when the election of officers was on the very first meeting, as he felt they could not conduct any meetings without having an officer, but thinks it appropriate they have the full Board present to do that. He says the Board will put that on the Agenda for February.

   Charity Yonker: Asks if there is a motion to postpone, and a second.

   Kathryn Hanning: Says she will move.

   Ken Thornton: Seconds the motion.

   John Harding: Asks if there is any further discussion and calls for a vote.

   _All in Favor, motion carries 3 – 0._

B. **Special Use Permit Application #034-2021, Submitted by Brian McGeehan to Place an Outfitter/Guide Facility. [00:04:55].**

1. Kevin Angland presents the Staff Report.

   Motions:

   **A:** Move that Special Use Permits #034-2021 to allow the construction of a private garage without a principal use on Parcel #3670500, 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 #034-2021 to allow the construction of an outfitter guide facility on Parcel #3670500 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 if required for the change of use.

3. A separate Location/Conformance Permit must be obtained for any sign that is placed on the premises to ensure it meets the requirements of the Cascade County Zoning Regulations.

2. Board Discussion [00:29:47].

John Harding: Asks if there are questions for the staff.

3. Public Hearing opens at [09:29 AM], [00:29:57].

Brian McGeehan of 76 Lucille Lane, Bozeman, MT 59718: Says he appreciates the time and would be happy to answer any questions anybody has about the proposal.

John Harding: Asks if there is river access from that property.

Brian McGeehan: Says no, the property abuts the right of way of the railroad which is currently not operated, so it is close but there is not direct river access.

John Harding: Says thank you.

Brian McGeehan: Says you’re welcome.

John Harding: Calls for public proponents.

Public Proponents: None.

John Harding: Calls for public opponents.

Public Opponents: None.

John Harding: Calls for any general public comments regarding the outfitter guide/facility.

Jack Topper of 193 Cooper Dr, Cascade MT: Says he has the adjacent parcel to the East of Mr. McGeehan’s Parcel, Parcel #3130050, and he has some concerns about access on Cooper Drive. He says that he and several others serve on a committee for the Cooper Road Maintenance and Improvement, LLC. The committee does all the maintenance on that road and collect contributions from the landowners who access their property via Cooper Drive. The money is used to support maintenance and improvements on that road. That road is a dead end road, and should there be a fire in that area, that is the only egress from most of the properties that are served by that road. There are 234 parcels that are accessed one way or another, and if there is a fire, there is a big concern about getting out. Mr. Topper says there has been one incident this summer shortly before the property had been acquired by Mr. McGeehan where there were a number of boats and vehicles pulling them in the area of that proposed lodge. Mr. Topper says he does not have a problem with the lodge itself, though access needs to be maintained. In that one instance, the road was obstructed. There were people who could not get through until vehicles were moved. That is an issue. He says he understands they had proposed to put parking on the North side of Cooper which should be fine depending on the placement. Mr. Topper says that the third thing he wishes to mention is that there is an easement written into his deed, and presumably every other property’s deed on Cooper Drive, and that easement is thirty feet either side of the center line of the road, so parking couldn’t be placed there. He says there is another parcel to the southeast of Mr.
McGeehan's property owned by Mike and Cynthia Owens. Mr. Topper says he has been in touch with them, and they did not receive any notification of the meeting, so although he doesn’t see their parcel number there, they have the one that is directly across Cooper Drive to the south. He states that the notification was incomplete, or the post office blew it, one of the two.

**John Harding:** Says thank you and calls for additional public comment.

**Public Hearing closes at 09:35 AM.**

4. **Board Discussion & Action: [00:36:14].**

**Kathryn Hanning:** Says “I Motion to adopt the Staff Report in its entirety with Findings of Fact and approve Special Use Permit #034-2021 to allow the construction of an outfitter guide facility on Parcel #3670500 subject to the following conditions one through three.”

**John Harding:** Asks if there is a second.

**Leonard Reed:** Asks if he is allowed, as he will second it.

**John Harding:** Says to make a second, yes.

**Charity Yonker:** Says he hasn’t been re-appointed yet, and the Board would have to be ratified.

**Phoebe Marcinek:** Says she doesn’t think so [replying to Mr. Reed].

**Ken Thornton:** Seconds the motion.

**John Harding:** Says not until official re-appointment, but Mr. Reed is welcome to comment. He asks if there is any discussion. Mr. Harding says that Mr. Topper's concerns are valid as with any of these types of changes of use there are little conflicts here and there that can be worked out. As far as the fire egress, that is something that is becoming more significant and certainly in the front of everybody’s minds after recent wildfires in Montana and throughout the country, that is going to be the number one issue with the fire folks throughout the country very soon. It is being addressed and, in Mr. Topper’s area needs to be talked about more. That is a discussion that needs to happen amongst the landowners in that area along with the fire department. Mr. Harding asks if there is any other discussion.

**Ken Thornton:** Asks if there was parking addressed in his application.

**Kevin Angland:** Says there was on the North side of Cooper Road, if any of the clientele does drive to the property, here is the parking [he indicates this on the map]. Other than that, they anticipate that most of the clientele would get shuttled in from Helena or Great Falls.

**Ken Thornton:** Says this would be addressed then, the issue of parking on the road.

**Kevin Angland:** Says in the application it doesn’t specifically state where they would be on the north of Cooper.

**John Harding:** Says it becomes somewhat of a private scenario, not something specifically that this Board. If there is a problem it can be discussed, however if it an easement or something privately to do with landowners, we don’t have a lot to do with that unfortunately.

**Ken Thornton:** Says it is concerning to him that the Board is okaying this application and then it creates an egress problem, specifically because they have okayed the application. That is the significance.

**John Harding:** Says it appears to him there are lots of places to park not on the road, that hopefully the applicant does that.

**Ken Thornton:** Asks if there is any way the Board could make it a condition.

**John Harding:** Says that if the Board singled out a single parcel and told that person they have to have this, they would have to go through the whole subdivision and tell every one of the homeowners the exact same thing—they have to abide by the rules that they already have. There is
a thirty-foot easement in that road, they can’t park on it. It is already there. Mr. Harding says hopefully it doesn’t become a conflict, and he appreciates Mr. Thornton’s comment. He hopes that all neighbors are good players.

**John Harding:** Says “right.”

**Various Board members:** [Inaudible].

**John Harding:** Says his question on the river access is the exact same thing, it is a railroad easement. It doesn’t mean a guy couldn’t grab a flyrod and cross the tracks to get to the river, but he is violating the easement at that point. Mr. Harding asks if there is a motion.

**Kathryn Hanning:** Motions to approve.

**Ken Thornton:** Seconds the motion.

**John Harding:** Asks for any other discussion. Hearing none, he calls for a vote.

*All in Favor, motion carries 3–0.*

C. **Special Use Permit Application #035-2021, Submitted by Archie LaFurge to allow the use of Vehicle Repair [00:42:05].**

1. Amber Hobbs presents the Staff Report.

**Motions:**

**A:** Move that Special Use Permit #035-2021 to allow the use of Vehicle Repair on Lots 1-6 of Block 15 of the Highland Park Subdivision in Section 13, Township 20 North, Range 03 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 #035-2021 to allow the use of Vehicle Repair on Lots 1-6 of Block 15 of the Highland Park Subdivision in Section 13, Township 20 North, Range 03 East, P.M.M., Cascade County, MT, subject to the following conditions:

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

2. The Applicant causes to be filed an Amended Plat aggregating Parcel Nos. 2073000 & 2073100.

2. **Board Discussion [01:13:53].**

**John Harding:** Asks if there are any questions for staff. Hearing none, he asks if the city owns 15th Street all the way to the [inaudible] side of the road.

**Amber Hobbs:** Says they own the park area to the west of the subject property, and they also own a property to the north.

**John Harding:** Asks if 13th Street is right up to the property line, here in the city.

**Amber Hobbs:** Says yes.

**John Harding:** Asks referencing the fire district, if the city doesn’t serve that property.

**Amber Hobbs:** Says they are in a zone where the city would possibly service, they would probably be the closest if there was a fire, but the next closest for county would be Sand Coulee. In GIS, it is noted that it would be the city fire station that would service this.

**John Harding:** Asks how many blocks from that location the little strip of county area starts.
Amber Hobbs: Says the one that is above it is county.
John Harding: Asks if the one behind that is back in the city.
Amber Hobbs: Says if we look at the zoning map you will see how many blocks there are. Everything that is the light red color is county, and anything that is hatched is going to be within city limits.
John Harding: Asks when you go to the North, where does the county start.
Amber Hobbs: Asks if he means north of the property if you keep going north.
John Harding: Says yes.
Amber Hobbs: Says she thinks it is one more left that is county and then the rest is city.
John Harding: Says as it goes, little enclaves like that the city has been kind of pushing to bring that into the city. I guess the technical term would be wholly surrounded, so I am assuming it goes out and goes into county so it is not surrounded.
Amber Hobbs: Says it is surrounded by city.
John Harding: Asks if it surrounded.
Amber Hobbs: Says yeah.
John Harding: Says okay.
Amber Hobbs: Says she did contact the City of Great Falls by email and certified mail so they are aware.
John Harding: Says he knows they are pushing the issue with cutting off services. They are requesting annexing to the city, currently getting services from the city which would be sewer and water. The request would be to annex to the city or getting services cut off. They could still stay in the county, but will not get services anymore. Mr. Harding says he is curious how that would affect them.
Amber Hobbs: Says for this property, the applicants said they are going to have a septic and they have a well.
John Harding: Says he saw that in the report and asks for any other questions for the staff.


Archie LaFurge of 1116 Adobe Drive, Great Falls: Says it has been a long-going process to get all his ducks in a row to this point, and will try and answer any questions the Board has.
John Harding: Says he does not think he has any and asks why Mr. LaFurge chose not to annex into the city.
Archie LaFurge: Says this was a property that was owned by his grandparents years ago, they passed away, and they were always under the impression that it was commercially zoned. When the original application was submitted, Mr. LaFurge says they ran into zoning issues, got that resolved and now we are on to this. It is right on the edge of town, about nine blocks from his current place of business and so was worthwhile.
John Harding: Says okay, and thanks Mr. LaFurge.
Public Proponents: None.
Public Opponents: None.
General Public Comments Regarding Vehicle Repair.
Public Hearing closes at 10:19 AM.


Ken Thornton: Says “I move the Board to adopt the Staff Report in its entirety with Findings of Fact and approve Special Use Permits #035-2021 to allow the use of Vehicle Repair on Lots 1-6 of Block
15 of the Highland Park Subdivision in Section 13, Township 20 North, Range 03 East, P.M.M., Cascade County, MT, subject to the two conditions”.

John Harding: Asks if there is a second.
Kathryn Hanning: Says she will second it.
John Harding: Asks if there is any discussion and calls for a vote.
All in Favor, motion carries 3 – 0.

D. Special Use Permit Application #036-2021, Submitted by Kyle Edwards to allow excavation of sand and gravel. [01:20:29].

1. Kevin Angland presents the Staff Report.

Motions:

A: Move that Special Use Permits #036-2021 to allow the construction of a subject property on Parcel #2645600, be denied due to (ZBOA member proposing denial must delineate legal reason that the application be denied)

Or

B: Move the Board to adopt the Staff Report in its entirety with Findings of Fact and approve Special Use Permit #036-2021 to allow Excavation of Sand and Gravel on Parcel #2645600 subject to the following conditions:

1. The Applicant obtains any other required county, state, or federal permits and approvals, and comply with the laws, rules, regulations, and/or ordinances associated with any other permits and approvals.

2. Applicant obtains an approved Subsurface Wastewater Treatment System Permit from the City-County Health Department prior to installation of any wastewater treatment system.

3. Operations hours shall be limited from 7:00 a.m. to 5:00 p.m.

4. In the case of an open excavation there shall be a substantial fence, suitable gates, completely enclosing the portion of the property which the excavation is located in, and such fence shall be located at all points forty (40) feet or more from the edge of excavation.

5. A sight obscuring fence, berm or other such improvement shall be required along the site perimeter(s) adjacent to the aforementioned abutting zone(s) and shall be installed or caused to be installed by the party to whom the special permit was issued prior to beginning operations under said special permit issued therefore. Said sight obscuring fence, berm or other such improvement shall be of a height sufficient to block the line of sight from occupancies of the aforementioned abutting zone(s) as determined by the Zoning Board of Adjustment.

6. No rock crusher, cement plant, or other crushing, grinding, or polishing or cutting machinery, or other physical or chemical process for treating the product of such quarry shall be permitted, except in an I-2 District, or by permission of the ZBOA.

7. In the case where excavation activity is discontinued, the excavation shall be restored in accordance with Open Cut Mining Reclamation guidelines (see MCA § 82-4-400, et seq).

2. Board Discussion [01:45:56].
John Harding: Asks if there are questions for staff. He asks if in the report there are conditions of approval that limit the eight to five for all days, or if there was discussion of Monday through Friday.

Kevin Angland: Says it would be Monday through Friday.

John Harding: Says that if this is approved, he would suggest that it be added. Mr. Harding asks whether there is a timeframe for the reclamation once the project is over.

Kevin Angland: Says he believes that would be permitted by DEQ in their process for open cut mining.

John Harding: Asks if Mr. Angland has any idea what that is.

Kevin Angland: Says he does not have an idea on that but he can look into it.

John Harding: Asks if there has been any discussion about that [inaudible] or any comment especially about timeframe.

Charity Yonker: Says Mr. Angland has the timeframe for completion on the project.

Kevin Angland: Says the applicants stated they would go from January 2022 to December 2022.

Kathryn Hanning: Asks if that would include reclaiming it.

Kevin Angland: Says no, that is just development. The reclamation process involved is [inaudible].

John Harding: Says yes.

Charity Yonker: Says we have done some in the past where DEQ has issued an open cut mining permit, so all the specifics are not known, but they will generally require revegetation, the bank needs to be sloping at a certain rate, and all of that is required through DEQ.

John Harding: Asks if there are any other questions.

Ken Thornton: Asks since there is no processing if there will be any screening of the gravel side.

Charity Yonker: Says they are required to do forty foot around the excavation pit.

Kevin Angland: Asks if he means actual screening.

Ken Thornton: Says he means screening to get the large boulders out of there.

Charity Yonker: Says that might be a good question for the applicant.

John Harding: Says yes, for sure and asks if there are further questions.


Kyle Edwards of 366 Fields Road: Says he is representing Ranch Development, LLC, and he will touch on some of the questions. As far as processing equipment, there will be no processing equipment. All that is being done is excavating the pit for gravel, and then later will bring in processed gravel for the asphalt. Mr. Edwards says the proposed area for mining is adjacent to the phase four roadways, so they won’t be on any established roadways, per se, and will build the roads as they go. All the slopes going down have to be 3:1 according to Montana DEQ and will dedicate the major portion of the area back to farm ground, and that’s a 5:1 slope so it will be fairly flat. There is a proposal with DEQ right now about maintaining the natural drainage, so it will go from the parcel toward the south. Mr. Edwards says he doesn’t see any way [inaudible], did a good job making [inaudible]. He adds that he doesn’t know if he could get the Board to change the hours of operation, but would like them to be from seven to seven, as if hours are taken away throughout the day and weekends it will make the process longer, so if he could put in the long days it would be helpful. Mr. Edwards says that as far as reclamation goes, reclamation is good though 2026, through Montana DEQ. The reason is to excavate enough material to help with future phases, too. The material would be stored on-site, but they plan to get all the material out the first year in order to have a stockpile. He asks if the Board has any other questions for him.

John Harding: Says he made a few notes here, so he might. He says he does not have any, and thanks Mr. Edwards.
Public Proponents: None.
Public Opponents:
**Wade Lawrence of 54 Sun Valley Lane:** Says he has some concerns, but first he would like to publicly thank Kevin, as Kevin has been awesome. Mr. Lawrence says he does not know who Mr. Angland works for, but he deserves a raise as he has done a great job. Mr. Lawrence says he is not technically opposed to the gravel pit and would like more clarification on the conditions before withdrawing his opposition. Mr. Lawrence says he spent a lot of years doing construction in the Air Force and therefore knows what the developer is doing, and has no issues with it overall, he thinks it is a smart move. Some of the questions were answered by the Applicant, however, Mr. Lawrence asks if the Board can call up a picture for reference as this is what was sent out and asks if it was a specific one.

**Kevin Angland:** Asks if it was the second one.

**Charity Yonker:** Says this one is the vicinity [map].

**Wade Lawrence:** Says yeah, it shows the actual boundaries where it’s going to be and everything else.

**Charity Yonker:** Asks if it is the one in the application.

**Wade Lawrence:** Says yes, in the application.

**John Harding:** Says yes, the vicinity map, and asks what they have got.

**Kevin Angland:** Says this map, yes, everyone should have a copy in their packet.

**Kathryn Hanning:** Asks if it is this one [holding up the vicinity map].

**Wade Lawrence:** Says just for reference, there is no house shown, but we are really fifty yards from the border of the site. Mr. Lawrence mentions the Malmstrom runway and says he will be fifty yards downwind of the operation. That is the context.

Mr. Lawrence says he is concerned not only about the process that will occur next year, but also long term what will be left behind. First, he is glad to hear about traffic on Barnwood, however the Staff Report said Barnwood was privately owned; that is actually an unimproved county road so that needs modified. He says the dust issue is the second concern, water trucks on the road is fine, however he requests clarification on the process. He says he would like some clarification of the excavation, and whether they plan to just excavate and remove it or will there be screening of the materials. He stated he heard “no processing equipment” and says the term “equipment” has different definitions depending on who one talks to. He says he understands there is no crushing, chemicals or machinery, however, if it is screened or sieved it is a huge dust concern and he would like to know how they plan to control that dust. Mr. Lawrence says the condition of the berm is the other concern, and it would need to be a fairly tall berm, he knows the condition says a berm or fence, but he prefers a large berm. Those are the concerns on the processing side. Mr. Lawrence says if they want to go to seven o’clock to shorten the duration, he is okay with that. He prefers five (5), but the applicant is right, it will make the process longer so if they want to go to seven (7) he will not push back on that. Mr. Lawrence says that beside the excavation process itself, the second major concern is what is going to be left behind. He knows that this gets into the DEQ application and their guidelines, but he is still concerned about that. It is beautiful farmland out there, so he is concerned about what will be left behind and will be watching closely. He says his other concern is the timeline for the reclamation going to be finished, and of course that is DEQ. Those are all his questions, and he is assuming reclamation is going to be done within a certain timeframe after construction is completed. He is not opposed to a gravel pit as long as it does not choke the residents out.

**John Harding:** Says thank you and asks if anyone else is opposed. He then calls for public comments.

**Kyle Edwards:** Asks Mr. Harding if he would like him to address some of those [questions].
John Harding: Says yeah, he will ask Mr. Edwards to address some of those in a minute. Mr. Harding calls for any general public comments regarding the gravel pit and hears none.

Public Hearing closes at 11:00 AM.

4. Board Discussion & Action: [02:00:40].

John Harding: Says the normal process begins with a motion and a second, and a discussion following it. It doesn’t specifically mean that something has been approved, but in order for the Board to discuss there must be a motion for the recommendation before us.

Ken Thornton: Says “I move the Board to adopt the Staff Report in its entirety with Findings of Fact and approve Special Use Permit #036-2021 to allow Excavation of Sand and Gravel on Parcel #2645600 subject to the seven conditions.”

Kathryn Hanning: Says she will second that.

John Harding: Says a motion and a second, so at this point we will have a discussion.

Ken Thornton: Says he hears the concern about being downwind of the gravel pit site, there is a significant problem with dust, and being maintained correctly. He says he is not sure what DEQ will require to operate a pit that is going to stay for six years for reclamation, but they are piling a lot of this gravel there and that could be quite a source of dust downwind.

John Harding: Says that was probably one of his biggest concerns, the wind scenario here is relentless and there are requirements here in a number of places where if you dig a hole, you have to cover the hole and the mound of material you have created to stop the wind erosion. That surely wouldn’t be any type of requirement that would be possible in a situation like this. Mr. Harding says that in the world of construction, he knows that there is no way to dig holes and not have dust. It is not possible. It would be reasonable of the person doing the excavation when we are having these mighty windstorms to stop what they are doing and not create havoc. Mr. Harding says he does not know how to put that as a condition, but would like to talk with the applicant and see if there would be a consideration to add those two hours, and some of those two hours would make up for a consideration from the applicant that when the wind is blowing sixty miles an hour, they don’t go fire up an excavator and start digging holes. Mr. Harding asks the applicant to make a comment about that, if he wouldn’t mind. He asks if the applicant was given the extra couple hours if he wouldn’t mind taking into consideration those things.

Kyle Edwards: Says absolutely.

John Harding: Says on windy days when you look across the county and see nothing but haze, holes should probably not be being dug.

Ken Thornton: Says it is not just digging at that point but having piles without planting a cover crop or something. Mr. Thornton requests the applicant do something about the piled dirt that will be there. He says he does not know if DEQ takes that into consideration.

Kathryn Hanning: Asks Mr. Edwards if he can discuss that.

Ken Thornton: Asks Mr. Edwards if he has any idea about the dust.

Kyle Edwards: Says the company is looking to work with the development and be considerate towards them and does not personally want to go out there when it is blowing sixty-five miles an hour and kick dust up. He says from his experience, he has been in gravel business quite awhile and grew up in a gravel pit, that after the weather gets on gravel material it solidifies and gets hard unless it is really fine sand such as masonry sand or something, it resembles concrete like a hard gravel surface road. As far as the reclamation, and making sure it gets done properly, DEQ is strict. Mr. Edwards says he has about a hundred forty thousand dollars’ worth of bond money they must
put up front in case they don’t fulfill this task to DEQ specifications. Mr. Edwards says he thinks that is what Mr. Lawrence was saying too, he also doesn’t want a big ugly hole and that is why DEQ puts those provisions in place. That is the reason for the bond for the reclamation.

**Kathryn Hanning:** Asks if screening is going to be a part of that.

**Kyle Edwards:** Says screening will not be, they are going to avoid all that. We are simply just taking the gravel as road base, if we hit a caliche pocket, which is like a natural concrete and very hard, we will probably skip it. One or two the excavator is probably not going to deal with it. We are kind of just going for the easy, smaller gravel to help with some of the financial burdens.

**Kathryn Hanning:** Says just to be clear, DEQ is making you pull out a bond for reclamation.

**Kyle Edwards:** Says yes.

**Kathryn Hanning:** Asks if they will likely be on and off the site multiple times.

**Kyle Edwards:** Says he is sure they will, DEQ, OSHA, all that will be.

**John Harding:** Says thank you.

**Kyle Edwards:** Says thank you.

**John Harding:** Says he is satisfied that DEQ is going to do what they say they are going to do in the reclamation process. Unfortunately, in the world of development, someone cannot develop without having some dust and it must be mitigated in the process. Mr. Harding asks that the applicant just be cognizant of what’s going on during windy days. Mounds of dirt do settle, and there have been farmers near the subdivisions who have tilled while the wind is blowing. Hopefully everybody are good neighbors and they can be aware of those dusty conditions and try not to be digging holes at that point.

**Kathryn Hanning:** Says she would like to add an amendment to condition number three, to increase the hours from seven to seven in the hope that it would get done quicker.

**John Harding:** Clarifies that it is Monday through Friday.

**Kathryn Hanning:** Says Monday through Friday.

**Kyle Edwards:** Says he would like that.

**John Harding:** Asks if there is any other discussion.

**Ken Thornton:** Says he seconds that.

**John Harding:** Says okay.

**Charity Yonker:** Asks if she may bring up a point and says there is a condition for number five, ‘a sight-obscuring fence, berm, or other such improvement’, it says ‘block the line-of-sight abutting the residential zones as determined by the Zoning Board of Adjustment’. There might need to be some clarity there, so the developer knows what is meant by that and also the surrounding neighbors.

**John Harding:** Says wonderful, okay.

**Kathryn Hanning:** Says she thinks the neighbors said they would rather have a berm than a fence.

**John Harding:** Says he read that and didn’t realize it was going to fall on the Board to decide, as it almost seems like that is someone else’s responsibility to determine that. He says sight-obscuring means different things to different people. A six-foot fence wouldn’t even hide the door on a piece of equipment, and it would surely not stop the dust. Commonly seen on construction sites are fences that don’t exceed much more than six or eight feet and he can’t imagine the applicant is considering fencing the property. If one builds a berm around the property, that is a similar situation. He says he cannot imagine a berm is the way to go. He asks what the discussion is amongst the Planning Department and DEQ what that might mean.
Charity Yonker: Says it tends to be left up to the developer, so as far as sight-obscuring, there is not a set county fencing requirement, so as long as it’s obscuring, they can come up with whatever works for them, but there remains a question of what would be a suitable height. She says generally for the Planning Department, when considering the different ordinances like Community Decay and Litter, the general rule is a six-foot fence. One shouldn’t be able to see into the property from the public right of way, and if there is a six-foot fence that is determined to be reasonable. There is going to be fluctuation depending on elevation, and if there is a property that is higher up, they would be able to see in, so it doesn’t really matter how tall that fence is going to be.

John Harding: Says six foot would be adequate but with the Board not having any other knowledge of anything it seems to be an industry standard and seems adequate.

Kathryn Hanning: Says one of the comments stated concern that there were no fences out in that property because they wanted that view.

Ken Thornton: Says condition four requires fencing around the whole thing.

Kathryn Hanning: Says that section is obscuring and does not see that right now with the zoning.

John Harding: Says right.

Charity Yonker: Says if it is not in the zoning, it is in plain language.

John Harding: Says once you get above six feet, you start creating viewing issues, even in the City of Great Falls the standard is six feet. You can’t go over six feet.

Phoebe Marcinek: Says also when the wind is blowing sixty miles an hour, you don’t want to [inaudible].

John Harding: Says right.

Charity Yonker: Says we do have another provision in zoning that if it is over six feet, they have to get a Location/Conformance Permit.

John Harding: Says with that, to simplify, it would seem to make sense that there should be more discussion about that, but six feet seems adequate.

Kathryn Hanning: Says she doesn’t think the neighbors’ cisterns are going to help.

John Harding: Says Ms. Hanning, if you would amend your amendment.

Kathryn Hanning: Says I can amend my amendment to add in [condition] five that it will be a six-foot fence. She asks if this is correct.

Charity Yonker: Says yes, that is the height that is sufficient.

Kathryn Hanning: Says she gets that the height is six foot and asks whether it could be a berm or fence.

Charity Yonker: Says sight-obscuring fence, berm, or other such improvement.

John Harding: Says yeah.

Kathryn Hanning: Says six foot.

Wade Lawrence: Asks if he can ask a clarifying question.

John Harding: Says he is sorry and asks Mr. Edwards to repeat the question.

Kyle Edwards: Says he would like to ask a clarifying question.

John Harding: Asks if the attorney is on right now.

Kathryn Hanning: Says that is the attorney [indicating Ms. Marcinek].

John Harding: Says oh, I’m sorry.

Kathryn Hanning: Says we have more than one.

John Harding: Says we have changed a time or two and apologizes. He asks Ms. Marcinek for an opinion on additional comments after the public hearing has concluded.
PhoebeMarcinek: Says it can be opened back up.
John Harding: Says the normal thought having run several meetings is that we haven’t opened these back up after that.
PhoebeMarcinek: Asks if he has not.
John Harding: Says that he has not.
PhoebeMarcinek: Asks what their process is.
John Harding: Says we have had public comments, discussion.
PhoebeMarcinek: Says we have opened up the discussion further, regarding the berm issue and she thinks it may also be helpful to hear from the applicant on what has been done on past projects. He said he has done gravel for thirty years, that might be some nice clarification for the record.
John Harding: Says the meetings get weird to him sometimes just because of this process.
PhoebeMarcinek: Says she doesn’t think the bylaws say anything against it, as she was reading them the other day.
John Harding: Asks if she would suggest that we re-open the public hearing, or just take general comments.
CharityYonker: Says he can open up the public hearing portion on this topic only.
John Harding: Says the topic of the fence height.
CharityYonker: Says yes.
PhoebeMarcinek: Says on condition number six.
John Harding: Says what he will do is re-open the public hearing to discuss condition number five only and have the same process; we will have comments by proponents, comments by opponents, and then comments from the general public.

5. Public Hearing opens at 11:17 AM, [02:17:00].

Public Proponents: None.
Public Opponents: None.
WadeLawrence: Says he is not sure he is opposed but would like clarification as he thought that the requirement was during the operational period where they are doing excavating operations, maybe a physical fence would be better. Screening from the fields is not practical. He requests clarification on what happen during the one-year process and more importantly what is left behind. He says he thought the obscuring was the long-term solution. In Foothills Ranch there are no fences allowed. He says it may be helpful to distinguish between what’s put out there during the one-year period and during the reclamation process. He suggests they berm before they leave, seed it and then there is kind of a natural berm left behind, as it matches the landscaping.
John Harding: Asks if the Applicant would like to make a comment and if there were any other general public comments regarding Condition #5.
Public Hearing closes at 11:19 AM.


John Harding: Says we still have a motion and a second, and an amendment to number three and number five, so the discussion is on the fence. It wouldn’t be reasonable to tear the fence down and put it back up again to start activity again. The six-foot fence option would be there until the activity on the site is complete, which could potentially take until 2026 when the DEQ requires a reclamation. Mr. Harding says this is how it seems to him and asks if that sounds right. Because
there is construction, the idea of the fence is to mitigate dust and hide all the equipment, so if there is construction activity through 2026 then the fence would remain.

**Ken Thornton:** Says that is what condition four is about, then. Because it is an active site, they must fence the whole thing. I’m assuming this boundary is just the obscuring fence.

**John Harding:** Says yeah.

**Ken Thornton:** Says it has to be obscuring. Or it can be a berm.

**Phoebe Marcinek:** Asks if that means when there is open excavation.

**Kathryn Hanning:** Says that can [inaudible] and would guess there would be large equipment during reclamation, so the way I see it is the fence would stay, but it may not take until 2026 to reclaim it if they get it all done in a year, who knows. The potential of the fence or berm could be there until 2026. They have to have equipment out there to reclaim.

**Charity Yonker:** Says if I may add, the difference between [conditions] four and five, is four is a round excavation pit so it becomes more of a public safety issue, so people aren’t going in there, and kids getting hurt, so that is the purpose of [condition] four. Five is mitigating the conflicts between the gravel pit use and the residential uses that are there. Because this is a temporary use, all of these conditions will cease once the use ceases.

**Phoebe Marcinek:** Asks if that is once the DEQ decides they are finished.

**Charity Yonker:** Says reclamation, so they are done and out.

**Phone Marcinek:** Says right, okay. Not when they are done pulling gravel, but right at the end.

**Charity Yonker:** Says right.

**Phoebe Marcinek:** Asks how high the fence is.

**John Harding:** Says six feet.

**Phoebe Marcinek:** Says so it is the same.

**Charity Yonker:** Says it is not set, so it is up for whatever the Board feels is appropriate in this particular situation.

**Kathryn Hanning:** Says she is good with her understanding of what was said.

**John Harding:** Says okay. We’ve got a motion and a second, and the amendment talking about operating hours seven to seven Monday through Friday, and a six-foot sight-obscuring fence that will be in place until activity is complete on the project. So that is the motion and second on the amendment. Mr. Harding calls for a vote.

*All in Favor, motion carries [3 – 0]*.

**Charity Yonker:** Says just for clarification, they have the option of the berm.

**John Harding:** Says yes.

**Charity Yonker:** Says it is the condition as written, adding a six-foot foot height.

**John Harding:** Says yes, as it’s written, sight-obscuring could be the applicant’s choice.

**Charity Yonker:** Says alright.

**John Harding:** Says sorry that got messy.

**Phoebe Marcinek:** Says wonderful, right. A new challenge, a for the Board.

**John Harding:** Says several years ago, I came to one of these meetings when this Board was conducting business and there was a meeting that got so out of control, there were comments after the hearing had been closed. Mr. Harding says he chaired the Planning Board for the city for almost a decade and it was similar, where you’re not trying to stifle public comment, but what happens at the end of all the debate and discussion, someone always has another idea, so there’s a lot of back and forth and at no point is everyone in the audience satisfied at what’s been said. Someone will always have additional questions and it is difficult to know when to stop. Mr. Harding says that he
is not saying we can’t have a public comment but wishes that the public comment is made thoughtfully during the process, because once the hearing is closed, we have always left it closed. It doesn’t mean we have to but when we’ve got fifty people sitting out here and everybody has different opinions. One question leads to another, and another. We can talk more about the process and the details, but all we want to do is keep some sort of order, so everybody’s comments are heard, but not belabor the issue.

Phoebe Marcinke: Says she thinks it was appropriate where the Board had a specific issue and re-opened it back up.

John Harding: Asks if they want to take a break for a second.

Ken Thornton: Says no.

Kathryn Hanning: Says [inaudible]. Laughter.

John Harding: Says we will thank Matt Graf for waiting.

E. Special Use permit Application # 037-2021, Submitted by Matthew Graf for Contractor Yard, Large [03:26:54].

1. Kareece Dafoe presents the Staff Report.

Motions:

A: Move that Special Use Permits #037-2021 to allow a large contractor yard on Parcel #2047400, be denied due to (ZBOA member proposing denial must delineate legal reason that the application be denied);

Or

B: Move the Board to adopt the Staff Report in its entirety with Findings of Fact and approve Special Use Permits #037-2021 to allow a large contractor yard on Parcel #2047400 subject to the following conditions:

1. The Applicant obtains any other required county, state, or federal permits and approvals, and comply with the laws, rules, regulations, and/or ordinances associated with any other permits and approvals.

2. Applicant obtains addressing from the GIS Department for E911 purposes.

3. Applicant obtains an approved Subsurface Wastewater Treatment System Permit from the City-County Health Department prior to installation of any wastewater treatment system.

4. Any signage erected must comply with Section 8.1 of the Cascade County Zoning Regulations.

5. Aggregation of all lots or separate SUPs for each lot the use will be on.

2. Board Discussion [02:50:09].

John Harding: Asks if there are questions for Staff, and says he has one. In the beginning of the report, it said the existing structure is hooked to city water and septic, and the new structure will not be. He asks what the intention for the new structure is.

Kareece Dafoe: Says it will be a dry facility, they don’t plan to use any wastewater or water.

John Harding: Says okay, thank you.

Matt Graf of 65 Gibson Flats Road: Says he is building a shop, there is already an existing structure, [inaudible].

John Harding: Says okay.

Matt Graf: Says he can answer any questions they have.

John Harding: Says he doesn’t have any.

Kathryn Hanning: Says she just has on question going back to the water. On the Use Statement Form, you do state that you’ll be using city water, about two to four gallons a day.

Matt Graf: Says in the existing spot it is hooked up to the sewer. For a bathroom.

Phoebe Marcinak: Says so you will be using water and sewer.

John Harding: Says just on the existing one.

Phoebe Marcinak: Says right, but not in the new one.

John Harding: Asks if there is any facility inside of the new building or would there be a need for septic and well, or do you have a long-term blue room parked outside.

Matt Graf: Says if they want to use the bathroom there is one in the existing facility.

John Harding: Asks if there are any other questions, and then thanks the applicant.

Public Proponents: None.

Public Opponents: None.

John Harding: Calls for any other general public comments regarding contractor yard and hears none.

Public Hearing closes at 11:52 AM.

4. Board Discussion & Action: [02:53:02].

Kathryn Hanning: Says “I move the Board to adopt the Staff Report in its entirety with Findings of Fact and approve Special Use Permit #037-2021 to allow a large contractor yard on Parcel #2047400 subject to the following conditions one through five”.

John Harding: Says there is a motion.

Ken Thornton: Says he seconds the motion.

John Harding: Says there is a motion and a second, and asks if there is any discussion, and calls for a vote.

All in Favor, motion carries [3–0].

John Harding: Says thank you to Mr. Graf for being patient.

Matt Graf: Says it was interesting.

Kathryn Hanning: Says there’s opening on the board. [Laughter].

Matt Graf: Says he saw that.

6. PUBLIC COMMENTS REGARDING MATTERS WITHIN THE BOARD’S JURISDICTION [02:54:00].

None.

7. BOARD MATTERS [02:53:56].

None.

8. Adjournment at 11:53 AM, [02:54:02].
These signatures are for the approval of the draft meeting minutes for: 2/17/22

Ken Thom  
President/Vice President or Chair/Vice-Chair (Print)

Signature  
Date

Charity Yonker  
Planning Staff (Print)

Signature  
Date