

# ZONING BOARD OF ADJUSTMENT

SERVING CASCADE COUNTY, MONTANA

## **Hybrid Meeting Format:**

**Courthouse Annex Room 105**

325 2<sup>nd</sup> Ave. N.

Great Falls, MT 59401

**Online Zoom Meeting ID: 827 4283 7172**

Go to <https://us02web.zoom.us/j/82742837172> to join

Toll-Free: 888-788-0099 or 877-853-5247

*Board Members: Dexter Busby, David Deffinbaugh, Kathryn Hanning, John Harding, and Ken Thornton.*

---

# AGENDA

---

**2/17/2022**

**9:00 AM**

**1. Call To Order**

**2. Roll Call**

**3. Draft Meeting Minutes**

Documents:

[ZBOA DRAFT MINUTES 11-18-2021 FINAL.PDF](#)  
[DRAFT MEETING MINUTES 1-20-2022 FINAL.PDF](#)

**4. Old Business**

a. Board Election of Officers

i. Board Discussion & Action

**5. New Business**

5.I. None

**6. Board Matters**

**7. Public Comments On Other Matters Within The Board's Jurisdiction**

**8. Adjournment**

121 4th St. N, STE 2H/I, Great Falls, MT 59401

Phone: (406)-454-6905 | Fax: 406-454-6919 | Email: [\[email protected\]](#)

<http://www.cascadecountymt.gov>

CASCADE COUNTY  
**ZONING BOARD OF ADJUSTMENT**

11/18/2021

9:00 AM

Hybrid Meeting Format-In-Person/Zoom Online Video Meeting

**Board Members:** Kathryn Hanning, John Harding, Charles Kuether, Ken Thornton, 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 [BOARD] AND ARE CONSIDERED A DRAFT UNTIL FORMALLY APPROVED BY [BOARD].

**STAFF ATTENDEES:** Kevin Angland, Kareece Dafoe, Carey Ann Haight, Amber Hobbs, Alisha Osborne, Charity Yonker.

**PUBLIC ATTENDEES:** Kelly Audet, Jim Dae, Donnell [online], Kyle Edwards, Tiffany Fairbanks, John Faulkner, Gaf Gre [online], Chris Gibson, Jerry Grinde, Nathan Hoines, Wade Lawrence, Scott Moodie, Shaun Norstedt, Amy Parsons, Ken Pottolicchio, Craig Rude, Wanda Rude, Ryan Scholl, Charles F. Taylor, Gary Walter, Shawn Wisner, Jordan Yuhus [online], Tim Yuhus.

1. **CALL TO ORDER:** Charles Kuether called the meeting to order at [09:01AM] [00:00:35].

2. **ROLL CALL:**

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

**BOARD MEMBERS ABSENT:** None.

**Charles Kuether:** Asks whether they need to account for any of these [gestures to the screen where there are online participants].

**Charity Yonker:** Replies that they will just need to state their name and address.

**Charles Kuether:** Says okay. Says the first item on the Agenda is the approval of minutes

3. **APPROVAL OF THE MINUTES :**

**A. Draft Meeting Minutes June 17, 2021** [00:02:07]

1. **Board Discussion & Decision**

**Charles Kuether:** Asks if there is any discussion.

**Kathryn Hanning:** Says her name was misspelled in the documents, it is actually -r-y-n. She says she is not sure if that matters, but it doesn't matter to her.

**Charity Yonker:** Says we will make that correction.

**Katheryn Hanning:** Says thank you.

**John Harding:** Says nice job.

**Katheryn Hanning:** Says thank you. I wanted you to know that I read those.

**Charles Kuether:** Asks if there was anything else.

**John Harding:** Motions to Approve.

**Ken Thornton:** Seconds the Motion.

*All in Favor, motion carries 5-0*

4. **OLD BUSINESS: None.**

5. **NEW BUSINESS:**

**A. Special Use Permit Application #024-2021 for manufacturing and assembly of fencing materials & Special Use Permit Application #025-2021 for construction yard Submitted by Shaun Norstedt for Norstedt Rentals, LLC [00:02:52]**

1. **Kareece Dafoe presents the Staff Report.**

**Motions Presented:**

**A:** Move that Special Use Permits #024-2021 & #025-2021 to allow a large contractor yard, and manufacturing and assembly on Parcel #2019027, 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 #024-2021 & #025-2021 to allow a large contractor yard, and manufacturing and assembly on Parcel #2019027 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. The subject property must be aggregated from four (4) lots to one (1) lot, unless separate SUPs are obtained for each individual lot.

2. **Board Discussion [00:24:34]**

**Charles Kuether:** Asks if there are questions for the staff, and then asks if the applicant is present and would come up to the podium and identify themselves and give their address.

**Schaun Norstedt:** Says his address is 376 Central Avenue, Belt MT.

**Charles Kuether:** Asks if Mr. Norstedt has anything he would like to add to the Staff Report, or anything he could tell the Board that would be helpful.

**Schaun Norstedt:** Says they just want to grow the business and help the community and try to grow a little bit.

**Charles Kuether:** Asks the Board members if they have any questions. *[Silence]*. Mr. Keuther thanks the Applicant.

**3. Public Hearing opens at 09:26 AM, [00:25:15].**

**Proponents:** *Schaun Norstedt raises his hand.*

**Opponents:** None.

**Public Hearing closes at 09:26 AM.**

**4. Board Discussion & Action: [00:26:05].**

**Charles Kuether:** Asks if there are any questions or comments from the Board after hearing that. *[Silence]*. Mr. Keuther asks if there is a Motion from anyone.

**Kathryn Hanning:** Says "I Move the Board adopt the Staff Report in its entirety with Findings of Fact and approve Special Use Permits #024-2021 & #025-2021 to allow a large contractor yard, and manufacturing and assembly on Parcel #2019027 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. The subject property must be aggregated from four (4) lots to one (1) lot, unless separate SUPs are obtained for each individual lot."

**John Harding:** Seconds the motion to adopt the Staff Report.

**Charles Kuether:** Says okay and calls for a vote.

***All in Favor, motion carries 5-0***

**B. Special Use Permit Application #030-2021, Submitted by Ranch Development for a Second Dwelling [00:27:26].**

**1. Kevin Angland Presents the Staff Report .**

**Motions Presented:**

**A:** Move that Special Use Permit #030-2021 to allow the construction of a duplex on Parcel #2032274, 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 #030-2021 to allow the construction of a duplex on Parcel #2032274 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. The duplex cannot exceed 150 feet in height.

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

**Charles Keuther:** Asks if there are any questions for the Staff from the Board. Asks if the Applicant is present.

**Kyle Edwards of 366 Fields Road:** Says he is representing Ranch Development, LLC this morning. He states there are currently five of the townhouses constructed right now, with a sixth under construction, and this one will be number seven of eight. He explains they have the same floorplan, same exterior, landscaped and maintained, and have passed the architectural committee and previously the Board.

**Charles Kuether:** Asks if anybody has any questions. Mr. Keuther thanks the Applicant.

**Kyle Edwards:** Says thank you.

**4. Public Hearing opens at [HH:MM PM/AM], [00:50:10].**

**Public Proponents:** None.

**Public Opponents:**

**Wade Lawrence of 54 Sun Valley Lane:** Says he lives in Foothills Ranch, just down the road from the area. He is concerned they are putting townhouses in a single-family home area. He asks to bring up the map and asks if they are both townhouses on either side. He says if so, he is going to withdraw his opposition.

**Charles Kuether:** Says his understanding is that they are already built, and he is building between those.

**Wade Lawrence:** Says that is correct, yes.

**Unidentified Commenter:** Says he thinks there is one under construction behind it.

**Wade Lawrence:** Asks if it is two eighty-four.

**Unidentified Commenter:** Says yes.

**Various People:** *[Inaudible]*.

**Wade Lawrence:** Says that he wanted to show the two existing townhomes and where the new one is being built now, and that he would like to withdraw his opposition.

**Charles Kuether:** Says thank you.

**Craig Rude of 16 Sun Valley Lane:** Says he is opposed to the townhouses, but there is nothing he can do about it. Says when he bought their lot eight or nine years ago, they were told it would be nothing but single-family dwellings and had looked into putting in an apartment in his shop and was told they could not have double dwelling homes in the neighborhood. He says they were all supposed to be single dwelling, and he is miffed at the fact they went ahead and did this. He says they are against the covenants, and that is all he has to say.

**Charles Kuether:** Asks if there are any other questions from the Board. *[Silence]*. Asks the Applicant if the covenants that were in effect when...well, I guess my first question is, are you in Phase II or III?

**Craig Rude:** Says two.

**Charles Kuether:** Says okay. Asks the applicant if they have different covenants than people in Phase III.

**Craig Rude:** Says he doesn't know.

**Charles Kuether:** Says okay. Asks whether the Phase III covenants allow the duplexes.

**Kyle Edwards:** Says Phase III was added later.

**Charles Kuether:** Says okay, and that is apparently the answer as Phase III would allow what he is asking for.

**Craig Rude:** Says he rescinds his decision to vote against this.

**Charles Kuether:** Says that is why we are here.

**Unidentified Speaker:** Asks if a specific map can be pulled up.

**Charles Kuether:** Asks Ms. Yonker if she can pull the map up.

**Amber Hobbs:** Says that map is for her [presentation], which is the next one.

**Unidentified Speaker:** Says, oh that's next on the Agenda, I'll wait for that.

**Various People:** *[Inaudible]*.

**Charles Kuether:** Asks if anyone else is conditionally or otherwise opposed to this.

**John Faulkner of 37 Limestone Lane:** Says many people bought back twelve years ago, and there wasn't a Phase III defined. He says some people present were at the meeting when the subject of the road failures came up, and they have private road failure in Phase III because of the swells out there. He asks what they will do as they have vacant roads and very few homeowners to cover the costs of rebuilding the roads. He says he thinks that is one of the nexuses where the phase is being split, so they would not have to be funded. The homeowners never thought the covenant would be drafted in such a way as to what they originally thought. Says he thinks the decision for Phase III being made

was flawed, as the developer had all of the voting rights. The people that live in Phase II don't really have any control of their own backyards due to the phase development.

**Charles Kuether:** Says oil refineries, or other.

**John Faulkner:** Says also in phase four, as there are different covenants there, also. He says the homeowners were told that there would be trails and a park in the back two lots where the townhomes will be, as they were harder to sell due to the high speed Stockett road. He says he will save his other comments for the next item on the Agenda.

**Charles Kuether:** Says he knows there is changing history and he looked at that early on when it was first being proposed that there was a water ski lake that was proposed out there. Asks if there are any other opponents to the project.

**Tim Yuhas of 98 Granite Hill Lane :** Says they have a question.

**Charles Kuether:** Says to bring it up.

**Tim Yuhas:** Asks at what point do the applicants have to apply for the permit, because the townhome has already been constructed and is almost done.

**Charles Kuether:** Says he thinks the Staff will have to answer that as he is not on that end of the project.

**Charity Yonker:** Says there is a pre-work and a post-work L/C, and generally if it is post-work it costs two hundred dollars as opposed to fifty dollars, and if they don't obtain a permit they will be in violation of zoning.

**Tim Yuhas:** Says okay and asks if they can apply after it has already been constructed.

**Charity Yonker:** Says we do have an option after the fact, you pay more for the permit.

**Tim Yuhas:** Asks what happens if the Department doesn't allow it, if the Department doubles the cost.

**Charity Yonker:** Says that that is the risk you take, if you don't meet setbacks or other requirements under the zoning, the worst case scenario is you would have to remove it.

**Tim Yuhas:** Says okay, that was his question.

**Charles Kuether:** Asks if there are any other people who are opposed to the project or considering being opposed to the project.

**Public Hearing closes at 10:01 AM.**

#### **1. Board Discussion & Action: [01:00:45]**

**Charles Kuether:** Asks if there is any discussion.

**Kathryn Hanning:** Asks if she is going to put out that concerns this report.

**Amber Hobbs:** Says that will be agenda number "C".

**Kathryn Hanning:** Says she is confused. *[Laughter]*.

**Amber Hobbs:** Says Agenda "B" is also located in Foothills Ranch Phase Three.

**Kathryn Hanning:** Says alright.

**Charles Kuether:** Asks if Ms. Hanning wanted to ask a question.

**Kathryn Hanning:** Says she is concerned that MDT isn't one hundred percent happy on ingress and egress in that part, and that they were going to check. She wonders if they replied with an answer that she is not aware of.

**Amber Hobbs:** Says the comment was sent over yesterday, and that he stated he might attend the meeting.

**Kathryn Hanning:** Asks if MDT had said officially if they have a problem with it yet.

**Amber Hobbs:** Says MDT wanted to talk with their engineer to look into it.

**Kathryn Hanning:** Says they have no set date. Says she thought she missed something.

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

**John Harding:** Says he will save his for the next hearing.

**Charles Kuether:** Says he thinks that one will be more popular. *[Laughter]*.

**John Harding:** "Move the Board to adopt the Staff Report in its entirety with Findings of Fact and **approve** Special Use Permit #030-2021 to allow the construction of a duplex on Parcel #2032274 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. The duplex cannot exceed 150 feet in height."

**Charles Kuether:** Says the Applicant has got to keep it under a hundred and fifty feet in height. *[Laughter]*.

**Kathryn Hanning:** Seconds the motion to approve.

**Charles Kuether:** Asks if there is any discussion to the Motion.

**All in Favor, motion carries 5-0.**

**C. Special Use Permit Application # 026-2021, #027-2021, #028-2021, & #029-2021 submitted by Signature Homes, LLC for a Second Dwelling [Audio Timestamp]**

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

**Motions Presented:**

**A.** Move that Special Use Permits #026-2021, #027-2021, #028-2021, & #029-2021 to allow the construction of a second dwelling unit on Lots 008 through 011, Block 006 of the Foothills Ranch Phase III Subdivision in Section 24, Township 20 North, Range 04 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 #026-2021, #027-2021, #028-2021, & #029-2021 to allow the construction of a second dwelling unit on Lots 008 through 011, Block 006 of the Foothills Ranch Phase III Subdivision in Section 24, Township 20 North, Range 04 East, P.M.M., Cascade County, MT, subject to the following conditions:

1. The Applicant obtains any other required county, state, or federal permits and comply with regulations associated with any other permits.
2. 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. Each second dwelling unit cannot exceed 150 feet in height.

**Amber Hobbs:** Says the Department received a number of comments for the SUP applications. One was not opposed to the applications and seventeen were opposed. There were six public comment concerns, and a table was created to address the concerns as additional information. *[The table is pulled up on the screen]*. Ms. Hobbs reads the table of concerns and additional information for consideration.

### **3. Board Discussion [01:34:14]**

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

**John Harding:** Says not at this point.

**Charles Kuether:** Asks if the Applicant is present.

**Kyle Moore of 200 Choteau Ave NE, Great Falls, MT 59404:** Says his name and address.

**Charles Kuether:** Asks if he can shed any light to this.

**Kyle Moore:** Says yes, he has read through the comments. The dwellings are designed to match the esthetic, that the homes are custom inside and most of the folks are retirees and buying their final homes. Mr. Moore addresses the HOA and landscaping concerns, and are not large occupancy, and therefore there should not be traffic concerns. He addresses the well water concerns per occupancy. He says the townhouses should not bring the property value down, and that he has built his own home next to two townhomes with no concern about property value diminishing.

**Charles Kuether:** Asks if there are any questions for the Board. *[Silence]*. Says he has a question about the wells.

**Kyle Moore:** Says yes.

**Charles Kuether:** Asks if they are going to allow a three hundred (300) foot well, if they know what aquifer they are in at which depth.

**Kyle Moore:** Says he should know that off the top of his head, but he knows they are in two different aquifers. He explains that they attempted one in the three hundred feet range and were down to three forty and the water quality was not that good, therefore they pushed it down to five hundred

and ten feet. He does not think they have one shorter than four hundred ninety. The last one drilled was five eighty.

**Charles Kuether:** Asks if Mr. Moore knows what kind of volumes they are getting.

**Kyle Moore:** Says between twelve to fourteen gallons per minute. All of them are tested and have good quality water.

**Charles Kuether:** Says thank you.

**Kyle Moore:** Says no problem and asks if there is anything else.

**Charles Kuether:** Says no, and thanks Mr. Moore.

**Kyle Moore:** Says he appreciates it.

#### **4. Public Hearing opens at 10:40 AM, [01:39:41].**

##### **Public Proponents:**

**Kelly Audet of 47 Silver Mine Lane:** Says she was the first townhome to be occupied on Silver Mine Lane. She thanks John for giving her background on how the HOA is operated and dues are being paid to both HOAs. She says they have had some complaints about there being no landscaping and that they are in a construction zone, and that they do take pride in their home. She explains that it will be maintained, and the snow will be removed, lawns will be mowed, and there are two units that are currently landscaped that look beautiful. She says they plan on spiffing up the front yards as well. She says it came as a surprise that the value could be lowered due to the townhomes, and that she disagrees that it will lower property values. She says the covenants are the same, and with the additional townhomes there will be dues that can cover road repair and a park or pickleball court. Ms. Audet asks that the agenda be approved.

**Charles Kuether:** Asks if there are any questions from the Board. *[None are heard]*. Mr. Kuether asks a question about the photos submitted, which show no landscaping, no trees being planted and has been left to return to the wild and points out that it is much different to what is being described by the commenter. He asks whether the photos description is consistent to what is going on out there.

**Kelly Audet:** Says that the HOA hasn't really come up with a plan yet, and they would still have to get the vested interest of the other townhome owners. She explains that if there is enough money, they would like to put landscaping in the front yards as they do have to be similar, and everyone has to be in agreement.

**Charles Kuether:** Says that right now, the photos and the comments are consistent that there is not landscaping.

**Kelly Audet:** Says that it is because they just got the landscaping in and there are only two townhome units that even have grass. The rest of the people are moving in and are not capable of putting grass in until the spring.

**Charles Kuether:** Says thank you.

**Kyle Moore:** Asks if he can add anything.

**Charles Kuether:** Says to let Ms. Audet sit down and then he (Mr. Moore) can go back up.

**Kyle Moore:** Says that sounds good.

**Charles Kuether:** Says okay.

**Kyle Moore:** Says he wants to address the question. He explains that they are in the process of building many of the townhomes, and they are in the state having just finished the drain fields. He explains that he just went out yesterday and took photos *[displays photos taken]* of Kelly's house which is one of the first ones built. He explains that a lot of the pictures taken were of builds that were not their [business's] build and are not in this particular HOA. Mr. Moore offers the photos for the Board's review.

**Charles Kuether:** Says sure. Asks if there are other proponents.

**Kyle Edwards of 366 Fields Road:** Says he would like to add on the weed and vegetation infestation as a concern. He describes the common area that is between the Ranch Development townhomes, and he feels that is where the vegetation is growing. Mr. Edwards explains that for the block of townhomes, the landscaping would not be finished until the townhomes are completed. He says they would not take the alfalfa out until the land is in use. Once they have their block built, they will tear out the alfalfa, spray it out, and plant a native dwarf grass and clean it up.

**Charles Kuether:** Asks if somebody harvests the alfalfa now.

**Kyle Edwards:** Says yes, it is getting to the point where something has to be done as one has to snake their way through it. It is still being harvested, and he just wanted to address the vegetation issue.

**Charles Kuether:** Says thank you.

**Kyle Edwards:** Says thank you.

**Charles Kuether:** Says third call for proponents.

**Nathan Hoines of 3509 12<sup>th</sup> Ave S:** Says he is a member of Ranch Development and has been involved with the development from day one. He explains they have outlasted the 2008 recession and were able to develop Phase II and one. He explains they amended the covenants to allow townhouses, they had a lot of votes, but it passed, and townhouses are allowed in the subdivision. Mr. Hoines explains that the townhouses being built align with the ones already built, and the alfalfa was put in for an environmentally sound solution to control weeds. The alfalfa will be harvested, and a walking path will be put in when they are finished. He explains that a deal was made with the HOA. The HOA will get the dues and the Ranch Development would maintain phase three and be responsible for snow removal and repair on sixty percent of the lots. Mr. Hoines says the lots were sold, and Ranch development is still maintaining the lots. He says the HOA have gotten the fees without the expense of maintaining the lots. Mr. Hoines explains that he understands how people feel, but that they should have expected to have neighbors with the community growth the way it is. He explains the approval process for building and architecture and the HOA covenants and that it is winter so people would wait on landscaping. Water rights have been designated and drainage issues, and the townhouses are not any bigger than house. The MDT put in a traffic turn lane at the developer's cost. He says the value will increase and explains the prices. He asks that the permit be approved.

**[Inaudible]**

**Charles Kuether:** Asks if there are any other proponents. [Silence]. Mr. Kuether calls for opponents.

**Public Opponents:**

**Jim Dae of 1 Rock Quarry Lane:** Asks for a map of Lot number 2032194. States he lives in Phase II of the subdivision. He says Phase II only allows single family houses, and how the townhouses are now being built on the borders of Phase II. He says he thinks it disingenuous to say it will not affect the property value. He states he is a real estate broker in town. He explains that a three hundred fifty-thousand-dollar townhouse is not on par with a seven hundred fifty-thousand-dollar house on several acres. He says the real estate market is going to end eventually. He reiterates that the market value of a nicer house not next to a townhouse is worth more than the home built adjacent to the townhomes. He asks that the Board disapprove the application.

**Charles Kuether:** Asks if there is a trade off in terms of desirability if a big family with lots of kids live in a regular house, next door to a quiet retired couple. He says he assumes there would be a trade off versus teenagers running around having parties. Mr. Kuether says that Mr. Dae is stating that a townhouse is always a slam dunk to reduce the desirability of the neighborhood.

**Jim Dae:** Says absolutely.

**Charles Kuether:** Says versus the teenagers running around having parties.

**Jim Dae:** Says Mr. Kuether is assuming all the houses out there have five teenagers and also assuming all those townhouses have retired people in them. Neither one of those always true.

**Charles Kuether:** Says that is why he is questioning what Mr. Dae is saying. Mr. Kuether says that Mr. Dae is assuming it is not going to be the teenagers.

**Jim Dae:** Says he is not assuming anything. He is assuming that that *[points]* is a one-level side-by-side townhouse, this *[points]* is a five thousand square foot six-bedroom six bath house with six car garage, and that's a fact *[points]* and that's a fact *[points]*. Says he cannot pick his neighbor and he doesn't know who will live in each house, and each piece of real estate will affect the property value. Physical characteristics are undisputable.

**Kathryn Hanning:** Asks if when they value the property, they do not use costs. She states they are not going to compare his property with a townhome they will look in the area you are on.

**Jim Dae:** Says when somebody comes out and looks, if there are two on his property-

**Kathryn Hanning:** Says no, she understands.

**Jim Dae:** Says his is next to a townhouse, the one four blocks over is not next to a townhouse and asks Ms. Hanning which one is going to be more desirable.

**Kathryn Hanning:** Says in a perceived value but not in a compensated, what-they-say-your-house-is-worth value. Ms. Hanning asks whether he mean perception of the buyer.

**Jim Dae:** Says yes. It is worth what someone is willing to pay.

**Kathryn Hanning:** Says she understands and clarifies that it is what the legal value is versus a perceived value.

**Jim Dae:** Says that perceived value is what sells houses.

**Kathryn Hanning:** Says she knew she would get him there.

**Jim Dae:** Says that perceived value is what sells houses.

**Kathryn Hanning:** Says she agrees.

**Jim Dae:** Says that Ms. Hanning cannot tell him that building a townhouse next to a custom-built home will not negatively affect its sale ability.

**Charles Kuether:** Says we just don't know and that is why we asked.

**Jim Dae:** Says he does know, and that it's his business.

**Kathryn Hanning:** Says she was just trying to figure out [inaudible].

**Charles Kuether:** [Inaudible].

**Amy Parsons of 27 Limestone Lane:** Asks for clarification on the turning lane, as she was under the impression that the turning lane was put in due to commercial development, not because of the townhomes.

**Kyle Edwards:** Says Phase III and the commercial, both.

**Amy Parsons:** Says okay, she doesn't think that's true. She says the other thing is they have vinyl fences and she was told they could not have them.

**Jim Dae:** Says you need to ask your homeowners association. Mr. Dae asks the Board if they are okay with him answering this question.

**Charles Kuether:** Says sure.

**Jim Dae:** Says the HOA determines where the fences go.

**Amy Parsons:** Says if they are all under the same covenants, it does not make sense that they don't all follow the same rules.

**Jim Dae:** Says absolutely. Says the HOA she is a part of that has Phase I, II, and III, and the commercial is-

**Amy Parsons:** Asks if there is anyone here from the HOA.

**Jim Dae:** Says those covenants trump everything else. He says they have to be consistent with the other [Inaudible]. That is their enforcement situation [inaudible]. You are exactly right.

**Amy Parsons:** Says that there was a previous homeowner-

**Carey Ann Haight:** Says hey, we really need to follow a process here, one at a time, the person at the podium should be speaking to the Board, not to the rest of the audience.

**Amy Parsons:** Says they were under the assumption they were all under the same covenant and apparently that is not accurate. She says that they were initially informed the turning lane was because of the commercial development, not because of townhomes. She says she doesn't agree with the placement, and doesn't have anything to back it up, but that is what they were told.

**Charles Kuether:** Says thank you. Asks if there are any other people who are opposed.

**John Faulkner of 37 Limestone Lane:** Says the townhomes are a different lifestyle. No one objected to the townhomes being infilled in an area with other townhomes, but he objects to them being intermixed into an area with unique, estate-style homes. He thinks that there are primarily retirees in townhomes, and that he doesn't think they are similar square footage. He says that in comparison, the roofline is larger and the density is more. He says many of the current residents bought their lots when there was no Phase III covenants and they all were shown single family development. He says the older townhomes were there and the new ones proposed brings them right into the single-family housing area. He describes rodent issues in area where it is not mowed. The townhouses will impact value. The intended density will impact ingress and egress and traffic. Says there may be more personnel from Malmstrom with kids that drive since it is close to the base. Says the townhomes all look alike and there are two models. He says it doesn't make sense. He asks why it is necessary to increase the density.

**Kathryn Hanning:** Says she has a question for Mr. Faulkner.

**John Faulkner:** Says sure.

**Kathryn Hanning:** Asks for clarification on a comment Mr. Faulkner made regarding upgrades and condos.

**John Faulkner:** Says some of the garages have apartments above them.

**Kathryn Hanning:** Asks if these are rentals.

**John Faulkner:** Says that they are mother-in-law apartments, and most aren't occupied.

**Kathryn Hanning:** Asks if they might have two-family residence and might be breaking their own rules.

**John Faulkner:** Says yeah. You cannot rent them out.

**Kathryn Hanning:** Says she sees, and the condo comment confused her, and she wanted to give Mr. Faulkner a chance to clarify.

**John Faulkner:** Says if you read the covenants, it is clear.

**Kathryn Hanning:** Says that they are mother-in law apartments.

**John Faulkner:** Says it is correct, and clarifies that the covenants state "owner" as in singular form, and that it is clear how the repairs are done on the regular homes versus the townhomes-the owner repairs them.

**Kathryn Hanning:** Says she wanted to clarify the condo comment as she thought maybe she misheard.

**Charity Yonker:** Asks the Chair if she may speak and explains that if there are mother-in law dwellings, they count as a second single-family dwelling under zoning and they need to go through the same SUP process.

**Kathryn Hanning:** Asks whether that is what they have. *[Several nods from people in the front row].*

**Chris Gibson of 10 Cobblestone Lane:** Says he would like to clarify a couple of things. First, he is retired Air Force, so he thinks the notion of only retirees buying townhomes is false. Secondly, the HOA generation fees which he believes the intention of were second single-family dwellings in the CCZR, there is still the generation of HOA fees and single-family dwellings can generate the same fees as townhomes. He states there is a lot of misconception. He reads the CCZR for the SR-2 zone to the

audience, and the definition of intended. He then asks whether the board intends to weigh the definition of 'intended' when making the final decision.

**Charles Kuether:** Says it is a rhetorical question.

**Chris Gibson:** Says that is all he has, and thanks the Board.

**Charles Kuether:** Says thank you and asks for any other opponents.

**Wade Lawrence of 54 Sun Valley Lane:** Says he is a military retiree of twenty-seven years and spent a lot of time in civil engineering and public works. Says he has never seen an area of mixed development such as Mr. Faulkner described. Says he spoke with two local realtors that did not have any vested interest in Foothills Ranch, who informed him that townhomes built next to regular homes will affect property values. He says he prefers to take the long-term view of market value of the homes in consideration and wants the Board to take this into consideration. He states that the difference in the value of the townhomes and regular houses were quoted very low. The townhouses tend to have higher turnover than single family homes. He says townhomes are not in harmony and it is a terrible idea to put them there. He says cookie cutter houses remind him of his tours in California, and we need to ask ourselves if this is the right thing to do. He recommends disapproving the application.

**Charles Kuether:** Asks if there are any other opponents.

**John Faulkner:** Says he missed one thing. He says to look ahead in twenty years and look at the longevity and maintenance standards on the smaller lots, and there will be more disagreements when people are separated by a wall. He suggests putting the townhomes in a different area together, and not near regular homes.

**Charles Kuether:** Says one last call for opponents.

**Scott Moodie of 7 Rock Quarry Lane:** Says he and his wife bought their lot in September of '19 and only found out yesterday of the plans for the lots in question. He says he appreciates consistency for the area.

**Charles Kuether:** Asks for last opponents. [Inaudible]. Says for anyone online, there is one last call for opponents.

**Charity Yonker:** Says we have a hand raised.

**Shawn Wiser of 22 Rock Quarry Lane:** Says he has a point of clarification. He says that in the documents, one of the reasons listed by the Applicant was it would increase affordable housing for the members of Malmstrom Air Force Base, then later on was discussed as they would be occupied by elderly retirees. He says there are contradictory justifications and that based on their current housing allowance, military folks cannot afford to rent or purchase these homes.

**Charles Kuether:** Asks Mr. Wiser to repeat his address as he missed it earlier.

**Shawn Wiser:** States his address for Mr. Kuether.

**Charles Kuether:** Asks if there is anyone else on the Zoom that wants to make a public comment. [Silence]. Says okay, we will close the public hearing.

**Public Hearing closes at 11:35 AM.**

**5. Board Discussion & Action: [02:33:14].**

**Kathryn Hanning:** Asks if there was a public comment from MDT, and whether the Planning Department said he would attend.

**Charles Kuether:** Says he heard that he would try to attend, but he does not see him up there.

**Charity Yonker:** Says he is not online. It is Jim Wingerter.

**Kathryn Hanning:** Says okay.

**Charles Kuether:** Says alright and asks for questions or comments. Says the public hearing is closed, are there questions or comments for the Board.

**John Harding:** Says at this point, obviously there will be discussion about this. He says “ Move the Board to adopt the Staff Report in its entirety with Findings of Fact and **approve** Special Use Permits #026-2021, #027-2021, #028-2021, & #029-2021 to allow the construction of a second dwelling unit on Lots 008 through 011, Block 006 of the Foothills Ranch Phase III Subdivision in Section 24, Township 20 North, Range 04 East, P.M.M., Cascade County, MT, subject to the following conditions:

1. The Applicant obtains any other required county, state, or federal permits and comply with regulations associated with any other permits.
2. 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. Each second dwelling unit cannot exceed 150 feet in height.”

**Charles Kuether:** Asks if there is a Second.

**Kathryn Hanning:** Seconds the Motion. Asks for a discussion.

**Charles Kuether:** Says it is open for discussion.

**John Harding:** Says he appreciates comments and people attending the meetings. He says he know every argument that he heard could be argued either way. Mr. Harding explains that he wanted to ensure he did not sit at his spot and make judgements without a set of clear-cut rules. He states he loves rules because the Board can work with rules that are established. He says he believes that all the arguments he heard in his opinion are issues of an HOA. He explains that Cascade County does have a zoning district, SR-2, that does allow for that type of use. He says that although he didn't read the covenants, they allow for that type of use already. He explains that it is difficult to see why one SUP was approved two hours prior for the exact same thing using the exact same rules in the same subdivision.

**Unidentified Speaker:** Asks if they can offer a-*[is cut off by Mr. Harding and Mr. Kuether]*.

**Multiple Board Members :** Say no, they cannot speak.

**John Harding:** Says no, he has made the motion, and this is one of the times sitting on the Board that he is happy to not have to make an emotional decision because there are rules that can be followed

instead. He says that unless the Attorney can give him a legal reason not to approve it, then he has no choice.

**Ken Thornton:** Says he has a reason why he will vote against it.

**John Harding:** Says he will try and get the answer from the Attorney. He asks Ms. Haight if there is a legal reason to deny the Application.

**Carey Ann Haight:** Says that the Board must make that determination based on the Staff Report analysis pursuant to the zoning regulations and explains that the Staff Report has recommended the SUP be approved subject to the four conditions listed within.

**Ken Thornton:** Says they are in a gray area and he was on the Planning Board when they okayed Foothills and there were no plans for condos, etc. He lists the zoning for each. He says he was surprised to see SUPs approved the first set of townhouses. He says he thinks what trumps everything is that everyone who moved there moved assuming it was single family zoned.

**Kathryn Hanning:** Says she has a question on and a concern with MDT, and she would really like to have their decision on that for ingress and egress. The Board has no jurisdiction over covenants or HOAs,

**Carey Ann Haight:** Says that is correct.

**Kathryn Hanning:** Says that makes her concerned, she wishes [inaudible].

**John Harding:** Says he doesn't think it's relevant at all.

**Kathryn Hanning:** Says no relevance.

**John Harding:** Says no relevance whatsoever.

**Kathryn Hanning:** Says she does think, and that there are townhouses out there and unless you buy the lot you are guaranteed nothing. She says she thinks it is bad harmony and it is unfortunate that there isn't an understanding amongst others out there of going forward.

**Charles Kuether:** Says he thinks he hears where people are coming from, as he lives in an area where it is subdivided and he could see two other houses and they had mixed emotions about things being built around them. He says he thinks he is concerned about the recommendation of Staff Report based on the MDT traffic and property values. He says he relies on the information in the Staff Report for recommendations and the numbers don't provide him anything that leads him to believe he has a legal basis to do anything other than endorse the opinion of the staff. He says at this point, he is inclined to agree with the motion that's been made. He asks if there is any other discussion among the Board at this point.

**Kathryn Hanning:** Asks whether MDT should find this problematic if they would have to address the issue.

**Charles Kuether:** Says that doesn't appear to be one of the conditions on there.

**Kathryn Hanning:** Asks if in general they have to address it.

**Charles Kuether:** Asks if they can add that as a condition.

**Kathryn Hanning:** Says they could.

**John Harding:** Says he doesn't personally see how MDT could have an opinion one way of the other and that's probably why they haven't responded.

**Charles Kuether:** Says that if they were going to show up, they would have.

**John Harding:** Says it surely would, just think about the subdivision and total build out.

**Kathryn Hanning:** Says she understands and begins talking about the wording.

**John Harding:** Says they can use traffic analysis and come pretty close to the numbers, and at no point do you get to determine how many people live in a house and how many cars that they use.

**Kathryn Hanning:** Says she understand what he is saying, but MDT's comment made him question that.

**John Harding:** Says that information that was presented was based on statistical information that is mostly true about who occupies those types of homes. He explains that it doesn't mean that it is complete, but that is mostly true.

**Ken Thornton:** Says what gets him is they are changing the precedent where they aren't following the zoning. He explains that when the whole development was put before the Planning Board, it was all single-family homes.

**Charles Kuether:** Says he thinks the problem with Mr. Thornton's argument is that the regulations provide the process that they are going through. The Staff makes the recommendation based on finding of fact and they have a legal obligation to approve it based on county regulations.

**Kathryn Hanning:** Says and that is page 68 clearly spells it out as permitted use under the regulations for the SUP.

**Charles Kuether:** Says he thinks based on county regulations *[is interrupted by Mr. Thornton]*.

**Ken Thornton:** Say he would go over what number three property values as people are concerned about property values.

**Charles Kuether:** Says he thinks it's a legitimate concern, but he doesn't think based on the Staff Report that they have the prerogative to override that report and recommendation.

**Ken Thornton:** Says the point he is concerned about is the increasing Special Use Permits and the probability of turning the planning process on its head.

**Charles Kuether:** Says that what we have done is what John has described-we followed the rules.

**Ken Thornton:** Says the rules say that we can turn it down when one of the conditions wasn't met.

**Charles Kuether:** Says that's right.

**John Harding:** Says that piece of property is not owned by any one of the Board, it is privately owned and so privately developed by the developer, who has allowed the use of a townhome and they have

been built. He says two hours ago, the Board approved another one, and it is impossible to pick certain lots you can build a townhome on and some you cannot.

**Ken Thornton:** Says the key point is no one objected to that.

**Multiple Board members speaking at once:** [Inaudible].

**Ken Thornton:** Says that is his point, it is a SUP, it doesn't have to be approved.

**Carey Ann Haight:** Says she needs to disagree with some of what is being said.

**Charles Kuether:** Asks the audience if they can hear what Ms. Haight is saying. He says he is making sure.

**Carey Ann Haight:** Says the Board's role in this process is to evaluate the application and the materials before it. It is not a popularity contest. The Board has to weigh the evidence and apply it to the rules. The developer has rights to develop his property as long as that is consistent with the regulations. By going through the process, they have analyzed that and determined it falls within the criteria. The Board's decision must be based on a legal reason.

**Charles Kuether:** Says okay.

**John Harding:** Says he is thankful for the rules because he agrees with it, though it isn't an easy decision.

**Charles Kuether:** Says that there are rules, just like stopping at a stop sign. This is how he understands the regulations. Asks if there is any other discussion from the staff. Calls for a vote.

***Motion carries 3-1.***

**Charles Kuether:** Calls for a 5-minute recess.

**D. Special Use Permit Application #031-2021, Submitted by Jerry Grinde to Place a Private Garage on Property without a Principal Use. [00:06:23]**<sup>1</sup>

**1. Kevin Angland Presents the Staff Report.**

**2. Motions Presented:**

**A:** Move that Special Use Permits #031-2021 to allow the construction of a private garage without a principal use on Parcel #2020008, 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 #031-2021 to allow the construction of a private garage without a principal use on Parcel #2020008 subject to the following conditions:

---

<sup>1</sup> Technical difficulties with the zoom recording occurred. A new recording was started.

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. The private garage cannot exceed 150 feet in height.

### **3. Board Discussion [00:27:01].**

**Charles Kuether:** Asks if there are any questions from the Board for the Staff. [Inaudible chatter from the Board]. Asks if the Applicant can come up to the podium.

**Jerry Grinde of 3109 3<sup>rd</sup> St NE:** Says he wants to build the garage and it will have windows and he will keep it mowed, and he wants to have it a little closer so he can have a driveway.

**Charles Kuether:** Says the setback requirements are in the regulations.

**Jerry Grinde:** Says he would be within the setbacks.

**Charles Kuether:** Says those are pretty well laid out.

**Jerry Grinde:** Says his sketch was centered and there's a lot of room. He says he just learned he needs nineteen feet of concrete from the street to the property line, so he might as well add a little more concrete and move it together. He says that is all he has got.

**Charles Kuether:** Says thank you.

**John Harding:** Asks Mr. Grinde if there is a requirement for water or services.

**Jerry Grinde:** Says no, he can walk next door and use services.

**John Harding:** Asks if there is going to be a bathroom room sitting right outside the door.

**Jerry Grinde:** Says no, he will walk home.

**Charles Kuether:** Says he can say it gets old, having to walk a block to go to the bathroom.

**Jerry Grinde:** Says he was told he couldn't have septic because the lots were too small.

**Charles Kuether:** Says thank you.

### **4. Public Hearing opens at 12:51 PM, [00:29:54].**

**Public Proponents:** None.

**Public Opponents:** None.

**Public Hearing closes at 12:52 PM.**

### **5. Board Discussion & Action: [00:30:23].**

**Charles Kuether:** Asks if there are any questions from the Board. [Silence]. Asks if there is a Motion from anyone.

**Ken Thornton:** Says “I Move the Board to adopt the Staff Report in its entirety with Findings of Fact and approve Special Use Permits #031-2021 to allow the construction of a private garage without a principal use on Parcel #2020008 subject to the following conditions one through four.”

**Kathryn Hanning:** Says she seconds that.

**Charles Kuether:** Asks if there is any discussion on the Motion.

**Charity Yonker:** Asks if she can get Kevin to confirm that Condition number four is 150 feet.

**Kevin Angland:** Replies that it is in the approach surface permit.

**Charles Kuether:** Says he thought it said 500 feet in the report.

**Charity Yonker:** Says for the Military Overlay District it is 500 feet.

**Kevin Angland:** Says he will need to get it back to height, as he called out both the approach surface and called out the MOD with the conditions.

**Charles Kuether:** Says to Mr. Grinde to have that down to 500 feet.

**Jerry Grinde:** Says he will be very careful.

**Charles Kuether:** Asks if there are any questions and calls for a Motion.

*All in Favor, motion carries 4 – 0.*

**PUBLIC COMMENTS REGARDING MATTERS WITHIN THE BOARD 'S JURISDICTION [00:32:00].**

None.

**6. BOARD MATTERS [00:32:01].**

*[Inaudible chatter].*

**Charles Kuether:** Asks what is on the schedule for next month.

**Charity Yonker:** Says she believes there is one SUP for Venture Stone for warehousing.

**Kevin Angland:** Says he did receive an SUP for next month, but it has not been finalized and payment has not been made.

**Charles Kuether:** Says thank you.

**Kevin Angland:** Says to look for it next month if the payment is made tomorrow, as the applicants stated when they came in.

**Charles Kuether:** Says okay and asks if there is a motion to adjourn.

**Kathryn Hanning:** Says yes.

**7. Adjournment at 12:55 PM, [00:33:18].**

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<sup>1</sup>

**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.

---

<sup>1</sup> 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 28<sup>th</sup>. 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 England:** 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 England:** 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 15<sup>th</sup> 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 13<sup>th</sup> 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.

### **3. Public Hearing opens at [10:17 AM], [01:17:29].**

**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.**

### **4. Board Discussion & Action: [01:19:28].**

**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 #0 36-2021, Submitted by Kyle Edwards to allow excavation of sand and gravel. [01:20:29].**

**1. Kevin England 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.

## 3. Public Hearing opens at [10:48 AM], [01:48:44].

**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 non.

**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.

**Phoebe Marcinek:** Says it can be opened back up.

**John Harding:** Says the normal thought having ran several meetings is that we haven't opened these back up after that.

**Phoebe Marcinek:** Asks if he has not.

**John Harding:** Says that he has not.

**Phoebe Marcinek:** Asks what their process is.

**John Harding:** Says we have had public comments, discussion.

**Phoebe Marcinek:** 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.

**Phoebe Marcinek:** 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.

**Charity Yonker:** Says he can open up the public hearing portion on this topic only.

**John Harding:** Says the topic of the fence height.

**Charity Yonker:** Says yes.

**Phoebe Marcinek:** 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.

**Wade Lawrence:** 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.**

## 6. Board Discussion & Action [02:19:48].

**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 Marcinek:** 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.

### 3. Public Hearing opens at [11:50 AM], [02:50:43].

**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 one 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 Marcinek:** Says so you will be using water and sewer.

**John Harding:** Says just on the existing one.

**Phoebe Marcinek:** 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].**

DRAFT