

# Findings of Fact & Conclusions for Special Use Permit # 003-2023

The Department provides that the following analysis, findings and conclusion for each of the required criteria provided under the controlling sections of the Zoning Regulations. Conditions may be required that the ZBOA determines if implemented, will mitigate potential conflicts in order to reach these conclusions.

<b>Standards Applicable to Special Uses (CCZR § 10.6)</b>
A. The proposed development will not materially endanger the public health or safety
(1) Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersections and approaches.
<b>Applicant Response:</b> No traffic patterns will be changing with this development. The site is a construction yard and already has intermittent truck traffic.
<b>Staff Analysis:</b> Access to property is via Highway 200 an MDT maintained road. Interested agency notice has been sent to MDT and no comments have been received as of the writing of this report.
(2) Provisions of services and utilities, including sewer, water, electrical, telecommunications, garbage collections, and fire protection.
<b>Applicant Response:</b> No utilities will be modified as a part of this project.
<b>Staff Analysis:</b> Applicant is not proposing additional use of electric or sewer. Property has fire protection services provided by the Simms Volunteer Fire Department. Interested Agency notice has been sent and as of the writing of this report no comments have been received. Condition #1 has been included to ensure that all necessary permits and approvals are obtained to ensure the appropriate use of services and utilities.
(3) Soil erosion, sedimentation, and storm water runoff.
<b>Applicant Response:</b> The excavation site will be reclaimed and stabilized so there will be no impacts such as erosion, sedimentation, or stormwater runoff.
<b>Staff Analysis:</b> Applicant has submitted a Floodplain Application for the excavation work in the floodplain. Submitted plans do show an adequate buffer space between the excavation and the river. Applicant plans on replacing topsoil and planting to reduce possible erosion of the topsoil. Condition #5 is proposed to ensure that the site is reclaimed following excavation. During the excavation process, sedimentation and storm water runoff may be deposited into the Sun River, a concern expressed by the Montana Fish Wildlife and Parks (see comment from FWP). Condition #10 has been proposed to ensure Best Management Practices are utilized to control and prevent stormwater runoff and additional sedimentation from entering into the Sun River.
(4) Protection of public community, or private water supplies, including possible adverse effects on surface waters or groundwater.
<b>Applicant Response:</b> The excavation site will be reclaimed and stabilized so there will be no impacts to any public, community or private water supplies or surface groundwater.
<b>Staff Analysis:</b> Applicant has submitted a Floodplain Application which shows a buffer zone between the excavation and the river. Aerial images do show that the excavation site is filling with water. Due to the possible intersection with the water table, the applicant will need an Opencut Mining Permit from DEQ per Condition #3 (also see comment from MDEQ).

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B. The proposed development will not substantially injure the value of adjoining property or is a public necessity.
(1) The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.
<b>Applicant Response:</b> The project consists of the owner digging a hole and then filling it back in. It will not impact any of the surrounding property values or cause any conflicts.
<b>Staff Analysis:</b> Surrounding uses are agricultural or residential. Possible noise, dust, and fumes could be detrimental to the enjoyment of neighbor's property. Additionally, excavation and the mound of material are visible from the roadway and will involve heavy equipment entering and exiting the location. Excavation is occurring on property traditionally used for agriculture with a pivot installed for irrigation. Conditions #4, #6, #7, #8 and #9 have been proposed to mitigate the public nuisance concerns of having a gravel pit operation adjacent to residential uses as a result of noise, dust, fumes, traffic, and vibration.
(2) Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or County as a whole as to justify it regardless of its impact on the value of adjoining property.
<b>Applicant Response:</b> N/A- Project is not necessary to public health, safety, or general welfare of the community.
<b>Staff Analysis:</b> Project is not necessary for the public health, safety, and general welfare of the community as to justify it regardless of its impacts on property values.
C. The proposed development will be in harmony with the area in which it is located.
(1) The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.
<b>Applicant Response:</b> The area in which it is located is farmland or bare land. The land will continue to be used as farmland after the excavation is reclaimed.
<b>Staff Analysis:</b> Surrounding uses are agricultural or residential and directly adjacent to the unincorporated Town of Simms. Possible noise, dust, and fumes could be detrimental to the enjoyment of neighbor's property. Additionally, excavation and mound of material are visible from the roadway. Excavation is occurring on property traditionally used for agriculture with a pivot installed for irrigation. Conditions #4, #6, #7, #8 and #9 have been proposed to mitigate the public nuisance concerns of having a gravel pit operation adjacent to residential uses as a result of noise, dust, fumes, traffic, and vibration.
D. The proposed development will be consistent with the Cascade County Growth Policy.
(1) Consistency with the Growth Policy objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its locational standards.
<b>Applicant Response:</b> The project will not change the site other than temporarily while the excavation is being performed. Once it is complete then the land will go back to the way it was.
<b>Staff Analysis:</b> Proposed development would foster small business growth in the area.

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***Goal 1: Sustain and strengthen the economic well-being of Cascade County's citizens.***

***A. Stimulate the retention of existing businesses and expansion of existing businesses, new businesses, value-added businesses, wholesale and retail businesses, and industries including agriculture, mining, manufacturing/processing, and forest products.***

**Applicant Response:** This project will expand an existing business with mining products.

**Staff Analysis:** The property currently houses the owner's trucking and large machinery rental business.

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

**Applicant Response:** The purpose of the project is to access natural resources and use them to expand an existing business which will add to the county's tax base.

**Staff Analysis:** Gravel pit is extracting resources from the property which is located in Cascade County.

***C. Identify and pursue primary business development that complements existing business, which is compatible with communities, and utilizes available assets. Identify and pursue targeted business development opportunities to include, but not limited to, manufacturing/heavy industry, telecommunications, and youth/social services.***

**Applicant Response:** Project will complement existing construction equipment business.

**Staff Analysis:** Applicant rents out heavy machinery, machinery used in excavation and processing could also be rented to public to supplement income.

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

**Applicant Response:** N/A- Project does not involve cultural resources or tourism.

**Staff Analysis:** Project will not have an effect on cultural resources and tourism to broaden Cascade County's economic base.

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

**Applicant Response:** Project will stimulate entrepreneurship as it will expand the owner's current business.

**Staff Analysis:** Applicant currently owns business operation on property, this would allow for expansion of that business.

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***F. Promote a strong local business environment. Encourage and strengthen business support mechanisms such as chambers of commerce, development organizations and business roundtable organizations.***

**Applicant Response:** Project will expand and existing business which promotes the local business environment.

**Staff Analysis:** Project would not have an effect on this goal.

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

**Applicant Response:** Project will provide materials for local trade.

**Staff Analysis:** Project would not support this goal as applicant has stated they will not be selling the gravel, it is for personal use only. However, Applicant's response below indicates materials will be locally traded. Condition #3 has been provided to require the Opencut Mining Permit in the event the Applicant is engaged in commercial activity with the extracted materials.

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

**Applicant Response:** Materials created by project will support other development efforts by leveraging local resources.

**Staff Analysis:** Applicant has stated they will not be selling the gravel, this goal would not be supported. Condition #3 has been provided to require the Opencut Mining Permit in the event the Applicant is engaged in commercial activity with the extracted materials.

***I. Encourage the growth of the agricultural economy.***

**Applicant Response:** Local ag business could use the materials being produced by the project.

**Staff Analysis:** Applicant has told staff and other agencies they will not and have not been selling gravel from this currently operating quarry. Applicant has stated the project is to reclaim a portion of the field that is too gravelly to farm. This project as the Applicant has described, would support this goal.

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

**Applicant Response:** N/A- Project does not involve energy

**Staff Analysis:** Project will not impact the growth of the economy by encouraging the use of alternate methods of energy production.

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***Goal 2: Protect and maintain Cascade County's rural character and the community's historic relationship with the natural resource development.***

***Objectives:***

***A. Foster the continuance of agriculture and forestry in recognition of their economic contribution and the intrinsic natural beauty of grazing areas, farmlands and forests.***

**Applicant Response:** Intention of project is to improve field for agricultural use.

**Staff Analysis:** Applicant plans to reclaim the excavation so that the site can continue to be used for agricultural purposes.

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

**Applicant Response:** Excavation site will be reclaimed when project is completed.

**Staff Analysis:** Applicant has buffer between excavation site and Sun River. The applicant is proposing to reclaim the excavation with native grasses and to stabilize the site as well. Condition #5 is proposed to ensure the site is restored in accordance with DEQ reclamation guidelines. This area has been identified by Montana Fish Wildlife and Parks as intersecting a gold eagle species occurrence area. The gold eagle is a federally protected species and a Species of Concern in Montana. Condition #11 is proposed to mitigate any concerns with developmental disturbances that could adversely affect the golden eagle.

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

**Applicant Response:** Project is located near an existing town and will not disturb any open space.

**Staff Analysis:** Project will not have an impact on this goal.

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

**Applicant Response:** Excavation site will be reclaimed once project is complete. Applicant has hired engineer to ensure buffer zone between river and excavation is an appropriate size to avoid any pollution.

**Staff Analysis:** Applicant does have an adequate buffer zone between the excavation site and the Sun River. Excavation site and pile of gravel can be seen from road (MT 200). Possible increase of dust in the air from gravel pit and pile.

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

**Applicant Response:** Project will develop natural resources by mining.

**Staff Analysis:** Applicant is proposing to mine gravel from the property which would directly support this goal.

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

**Applicant Response:** N/A- No superfund or brownfield impacts.

**Staff Analysis:** According to the EPA Brownfield and Superfund site map<sup>1</sup>, the property is not located in the vicinity of a Brownfield or Superfund site.

### ***Goal 3: Maintain Agricultural economy***

#### ***Objectives:***

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

**Applicant Response:** Project will not impact soil types in the area negatively.

**Staff Analysis:** Applicant is excavating gravel from field and replacing to topsoil to make the field more productive. Soil is not well rated for agriculture per the USDA web soil survey<sup>2</sup>.

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

**Applicant Response:** Project location will be stabilized after completion to protect against erosion.

**Staff Analysis:** Applicant will cause soil erosion during the excavation process with the removal of the topsoil and plants traditionally there to prevent the soil from being eroded by the wind. Condition #5 and 10 are proposed to help prevent soil erosion and reclamation requirements.

<sup>1</sup> [Cleanups in My Community | US EPA](#)

<sup>2</sup> [Web Soil Survey \(usda.gov\)](#)

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

**Applicant Response:** Floodplain will not be impacted by this project as the site will be reclaimed to the existing condition after completion.

**Staff Analysis:** Project is in the floodplain and will be impacted. Applicant is developing a mining operation in the floodplain according to FEMA flood Panel #30013C0485E. Mining is a non-agricultural development. Condition #2 is proposed to ensure the project is properly permitted in accordance with the Cascade County Floodplain Regulations.

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

**Applicant Response:** Project will support industry by utilizing regional products.

**Staff Analysis:** The project does not directly support the development of the value-added agricultural industry. Applicant indicates the gravel is for personal use only.

***Goal 4: Retain the presence of the US Military in Cascade County.***

***Objectives:***

- A. Encourage the federal congressional delegation to actively support maintaining the current mission status at a minimum.***
- B. Promote the location of additional military missions in Cascade County.***
- C. Encourage the reactivation of the runway at Malmstrom Air Force Base for fixed wing operations.***
- D. Refer to the Joint Land Use Study for resolving conflicts and promoting mission compatible development.***

**Applicant Response:** N/A- project does not affect the military

**Staff Analysis:** Proposed use will not have an impact on the presence of the US Military in Cascade County. The property is located outside of the Military Overlay District and the Great Falls Airport District. It is not within 2400 feet of a missile alert or launch facility.

***Goal 5: Preserve and enhance the rural, friendly and independent lifestyle currently enjoyed by Cascade County's citizens.***

***Objectives:***

- A. Maintain Cascade County's citizens independent lifestyle and minimize local governmental intervention, to the extent possible, consistent with the requirements of a continually evolving economy and constantly changing population.***

**Applicant Response:** Project will not impact any citizens lifestyle.

**Staff Analysis:** Project will not have an impact on this.

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***B. Preserve and promote Cascade County's rich cultural heritage, rooted in natural resource development and reflected in its numerous cultural/historic sites and archaeological areas.***

**Applicant Response:** No cultural heritage will be impacted by the project.

**Staff Analysis:** Project will not have an impact on this goal.

***C. Promote fire prevention measures throughout the county, giving special emphasis to the extreme fire hazards present at the wild land/urban interface.***

**Applicant Response:** Project will not cause any activity that would cause a fire hazard.

**Staff Analysis:** Property is within the Simms Fire District. An interested agency notice was sent to the Simms volunteer Fire Department. The property is within the Wildland Urban interface and has a moderate risk of fire danger according to the Wildland Urban Interface Cascade County and Dearborn FSA map. At the time of writing this report, no comments have been received from the Simms Volunteer Fire Department.

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

**Applicant Response:** N/A- project will not impact education, recreation, or health services.

**Staff Analysis:** Project will not have an impact on this goal.