

**ZONING BOARD OF ADJUSTMENT**  
**DRAFT MEETING MINUTES FOR OCTOBER 29, 2020**

Draft Meeting Minutes and Attachments

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CASCADE COUNTY  
**ZONING BOARD OF ADJUSTMENT**

10/29/2020

9:00 AM

Zoom Online Video Meeting

*Board Members: Bill Austin, Charles Kuether, Michelle Levine, Leonard Reed, and Rob Skawinski.*

**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 ADJUSTMENT AND ARE CONSIDERED A DRAFT UNTIL FORMALLY APPROVED BY THE ZONING BOARD OF ADJUSTMENT.

**STAFF ATTENDEES:** Destiny Gough, Carey Ann Haight, Amber Hobbs, Sandor Hopkins, Kevin Nurre, Bruce Treis, Jake Wilkinson, and Charity Yonker.

**PUBLIC ATTENDEES:** Garret Baney, Katie Baney, Kate Banner, Bob Bixler, Anna Ehnes, Bonee Erickson, Jo Erickson, Brett Irish, Kevin May, Tom Mital, Maurizio Primiani, Jen Rowell, Lisa Schmidt, TDS Enterprise, Alena Standley, Todd Standley, Michael Standley, and Ronda Wiggers.

1. **CALL TO ORDER:** Chair Bill Austin called the meeting to order at 9:02 AM, [00:00:00].

2. **ROLL CALL:**

**BOARD MEMBERS PRESENT:** Bill Austin, Charles Kuether, Michele Levine, and Rob Skawinski.

**BOARD MEMBERS ABSENT:** Leonard Reed.

3. **APPROVAL OF THE MINUTES:**

A. *Draft Meeting Minutes of May 28, 2020.* [00:03:10]

1. **Board Discussion & Decision**

**Bill Austin:** Invites Michele Levine to review the draft meeting minutes for May 28, 2020, for he was not present at that meeting.

**Michele Levine:** Says that she has reviewed the draft meeting minutes for May 28, 2020. She does ask that in the future the word "understand" be replaced with what the person stated. She says that will make it clear what the person is understanding. She says the word "understands" occurs

multiple times in the minutes. She says that she also has a question for staff as to if the Staff Report and the additional document materials are included with the meeting minutes. She says without the Staff Report and the additional document materials being attached to the minutes, it is difficult for a person to understand the meeting minutes.

**Charity Yonker:** Says that the meeting minutes are not posted with the additional document materials, but the County will ensure that it is posted and recorded with the additional document materials attached.

**Michele Levine:** Says that she finds that this would be helpful for these particular minutes since the additional document materials are heavily referenced.

**Bill Austin:** Says, "Good idea."

**Michele Levine:** Says that she has no further comments on the draft meeting minutes.

**Bill Austin:** Moves to the next draft meeting minutes.

**Michele Levine:** Says that they must make a motion on the draft meeting minutes for May 28, 2020.

**Bill Austin:** Says that he would like to take the Board's action on both of the draft meeting minutes together. However, they may take Board action for the draft meeting minutes one at a time. He calls for a motion on the draft meeting minutes for May 28, 2020.

**Michele Levine:** Moves to approve the draft meeting minutes for May 28, 2020.

**Charles Keuther:** Seconds the motion to approve.

*All in Favor, motion carries 4-0.*

B. *Draft Meeting Minutes of July 23, 2020.* [00:05:20]

1. **Board Discussion & Decision**

**Bill Austin:** Says that he was present at the Meeting on July 23, 2020, and he read the draft meeting minutes. He says he still always gets amazed at how good the minutes are prepared and that as he reads the minutes, he can visualize the meeting taking place. He goes on to says that did not see anywhere that that needed to be corrected. He asks if the Board has any comments on this set of draft meeting minutes.

**Charles Keuther:** Says that he has none.

**Bill Austin:** Asks Vice-Chair Michele Levine if she is satisfied with these draft meeting minutes.

**Michele Levine:** Says that she is satisfied.

**Bill Austin:** Asks Mr. Skawinski for his input.

**Rob Skawinski:** Says that he is fine with these draft meeting minutes.

**Bill Austin:** Calls for a motion for approval.

**Charles Keuther:** Says that he moves to approve the draft meeting minutes of July 23, 2020.

**Bill Austin:** Calls for a second on the motion.

**Michele Levine:** Seconds the motion for approval.

*All in Favor, motion carries 4-0.*

4. OLD BUSINESS: None.

5. NEW BUSINESS:

A. SUP #009-2020 & SUP #010-2020, General Sales & A Commercial Butcher–Bixler Properties, LLC  
[00:06:40]

1. Charity Yonker presents the Staff Report.<sup>1</sup>

2. Motions:

a. Motions for SUP #009-2020, General Sales:

**Alternative 1:** “Move the Special Use Permit #009-2020 to allow the use of General Sales on the subject property be **denied** due to (ZBOA member proposing denial must delineate legal reason that the Application be denied);”

Or

**Alternative 2:** “Move the Board adopt the Staff Report and Findings of Fact, and **approve** the Special Use Permit #009-2020 to allow the use of General Sales on the subject property subject to the following conditions:

1. The Applicant obtains any other required county, state, or federal permits and complies with regulations associated with any other permits.
2. The Applicant obtains an address from the Cascade County GIS Department.
3. The Applicant obtains the necessary approach permit(s) from the Cascade County Road & Bridge Division.
4. The Applicant performs a Traffic Impact Study if required by the Cascade County Road & Bridge Division.
5. The Applicant obtains any necessary permits required by the City/County Health Department and/or the Montana Department of Environmental Quality.”

b. Motions for SUP #010-2020, Commercial Butcher:

**Alternative 1:** “Move the Special Use Permit #010-2020 to allow a Commercial Butcher on the subject property be **denied** due to (ZBOA member proposing denial must delineate legal reason that the Application be denied);”

Or

**Alternative 2:** “Move the Board adopt the Staff Report and Findings of Fact, and **approve** the Special Use Permit #010-2020 to allow a Commercial Butcher on the subject property subject to the following conditions:

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<sup>1</sup> Please the attached Staff Report for SUP #090-2020 & SUP #010-2020.

1. The Applicant obtains any other required county, state, or federal permits and complies with regulations associated with any other permits.
2. The Applicant obtains an address from the Cascade County GIS Department.
3. The Applicant obtains the necessary approach permit(s) from the Cascade County Road & Bridge Division.
4. The Applicant performs a Traffic Impact Study if required by the Cascade County Road & Bridge Division.
5. The Applicant obtains any necessary permits required by the City/County Health Department and/or the Montana Department of Environmental Quality.”

### 3. Board Discussion [01:08:24]

**Bill Austin:** Asks if the Board has any questions about things that they wish to discuss.

**Charles Keuther:** Says that he has a general question regarding fees for addressing and the motions' conditions to obtain an address. He wonders if the Applicant would be subjected to paying for two (2) addresses.

**Bill Austin:** Says that he remembers discussing the addressing at a previous meeting. He wonders if the fee is for the postal office or if it is from the County.

**Charles Keuther:** Says that the fee goes to the County. He says previously they discussed three (3) different fees, the Location/Conformance (L/C) Permit Application fee, the Special Use Permit (SUP) Application fee, and the Address Assignment fee.

**Bill Austin:** He asks if the Chief Civil Attorney could answer their questions. He also asks if any of those questions have already been addressed by the County.

**Charles Keuther:** Says that the Planning Director stated that it is within her purview for her to waive/modify the fees. He says that he has not received any feedback on the questions since that meeting.

**Charity Yonker:** Asks if she may speak on the topic.

**Bill Austin:** Says yes.

**Charity Yonker:** Says that the Address Assignment fee and form are from a separate department, the Geographic Information Systems (GIS) Department. The GIS Department imposes a twenty-five dollar (\$25.00) fee for addressing and registering addresses with the emergency E911 system. Furthermore, she says that this project facility has two (2) separate SUP Applications as there are two (2) separate land uses being proposed. However, she says the facility, as a whole, is only one (1) building. Therefore, she says it requires the Applicant(s) to pay for one (1) Address Assignment fee.

**Charles Keuther:** Says that his question was if there were two (2) fees for the Address Assignment, and it appears that the answer is no.

**Charity Yonker:** Says yes.

**Charles Keuther:** Says thank you to the Planning Director.

**Bill Austin:** Says thank you to the Planning Director. He asks if the Board has any other questions. Hearing none, he moves to open the public hearing portion of this agenda item.

**Carey Ann Haight:** Asks if she may speak.

**Bill Austin:** Says yes.

**Carey Ann Haight:** Asks if the Board would like to ask the Applicant or the Applicant's representative some questions before moving to the next agenda item.

**Bill Austin:** Says that is an excellent idea.

**Michele Levine:** Says that she would like to hear from the Applicant or the Applicant's representative.

**Bill Austin:** Asks if the Applicant(s) is present.

**Kevin May:** Introduces himself as a representative and the engineer for the Applicant. He states that in his office presently he has the Applicant, Bob Bixler. He asks if the Board can hear him speak.

**Bill Austin:** Asks if Mr. May to address the Board.

**Kevin May:** States his businesses address and introduces his relationship and role in Mr. Bixler's project proposal. He says that he does have a short presentation regarding Mr. Bixler's proposal, but in regards, to the extent of time and the intricate presentation given by the County, he finds it best to wait on presenting it. Nevertheless, he gives a summary of the proposal. After reading his summary he asks if the Board has any questions for himself or the Applicant.

**Bill Austin:** Says that he does not have any questions. He says that when he read the proposal, he found it to be well thought out and designed. He asks if the Vice-Chair has any questions.

**Michele Levine:** Answers that the Application was well-detailed and put together. She says that she was fond of their usage of using photos in their Application and the overview of the project and the people who are/will be involved.

**Kevin May:** Says thank you.

**Michele Levine:** Asks if there will be a problem accessing the subject property and accessing the property regarding traffic via Ulm Flats Road as oppose to Ulm Vaughn Road to access West Ulm Road.

**Bill Austin:** Says that he did not find any problems regarding accessibility.

**Michele Levine:** Says that she is asking as there is a school nearby. She would like to know if traffic would be coming from the school or in another direction.

**Kevin May:** Says that he is unaware of any connectivity from any of the County approved roads from the West. He says that most of the traffic will need to come from West Ulm Road.

**Michele Levine:** She asks if that traffic goes by the school and has the children have been accounted for concerning the traffic.

**Kevin May:** Says yes and the Average Daily Traffic Study (ADT) is for the intersection of West Ulm Road and Ulm Vaughn Road as well as at the intersection by the school. He says the study considered the school speed limits and traffic.

**Michele Levine:** Thanks Mr. May for addressing her question. She tells the Chair that she found that any other question that she had was addressed in the Staff Report and the Application. Thus, she has no further questions as of this moment.

**Bill Austin:** Asks if Mr. Kuether has any questions or concerns.

**Charles Keuther:** Says that he does not have any additional questions or concerns.

**Bill Austin:** Asks if Mr. Skawinski has any questions or concerns. He asks if Mr. Skawinski is still present online.

**Rob Skawinski:** Asks if he could have a summary of how the business's processes will work.

**Bob Bixler:** Says that the business is a full meat processing facility, from live animal to end product.

**Rob Skawinski:** Thanks the Applicant as that answered his question perfectly. He says that he has no further questions for the Chair.

**Bill Austin:** Says that he has no more questions and thanks Mr. Bixler and Mr. May for addressing the Board.

**4. Public Hearing opens at 10:22 AM, [01:19:19].**

**Proponents:**

**Lisa Schmidt at 564 Graham Ranch Ln. Conrad, MT 59425:** Says that she has direct marketing beef and land for twenty-two (22) years. She has worked with Mr. Bixler for more than twelve (12) years. She says that processing is the bottleneck in her business that she also would like to expand. She says that Mr. Bixler's business expansion plans are critical to her plans for expansion. She says her neighbors also have businesses that rely heavily on this expansion plan to expand their businesses. She says that Mr. Bixler is a military man of integrity and goes out of his way to ensure that he does things right even if it is an arduous process. She says that is the reason she does business with him. She says that presently the process to get her meat processed and inspected is a three hundred and fifty (350) mile round trip to Kalispell. She says that this project will shorten her trips and she is overall in full support of this Application.

**Bill Austin:** Thanks Ms. Schmidt for her opinions and asks if she could repeat her name one last time.

**Lisa Schmidt:** States her name.

**Charity Yonker:** Asks if they could also hear her state her address for the record.

**Bill Austin:** Says that she lives out in Conrad.

**Charity Yonker:** Asks if they could also hear her state her address for the record.

**Lisa Schmidt:** States her address.

**Bill Austin:** Says that on an off note that he always enjoys her articles that she writes for the Tribune Newspaper.

**Lisa Schmidt:** Says that she may write next time about the ZBOA passing this proposal if it happens.

**Bill Austin:** Says thank you to her.

**Opponents:** None.

**Public Hearing closes at 10:26 AM.**

5. **Board Discussion & Action:** [01:23:16]

**Bill Austin:** Asks if the Board has any further questions. Hearing none, he calls for a motion to be made.

**Charles Keuther:** “[I] [m]ove the Board adopt the Staff Report and Findings of Fact, and **approve** the Special Use Permit #009-2020 to allow the use of General Sales on the subject property subject to the following conditions:

1. The Applicant obtains any other required county, state, or federal permits and complies with regulations associated with any other permits.
2. The Applicant obtains an address from the Cascade County GIS Department.
3. The Applicant obtains the necessary approach permit(s) from the Cascade County Road & Bridge Division.
4. The Applicant performs a Traffic Impact Study if required by the Cascade County Road & Bridge Division.
5. The Applicant obtains any necessary permits required by the City/County Health Department and/or the Montana Department of Environmental Quality.”

**Bill Austin:** Calls for a second.

**Michele Levine:** Seconds the motion to approve SUP #009-2020.

**Bill Austin:** Asks if the Board has any further questions. Hearing none, he calls for a motion to be made.

**Charles Keuther:** Moves to approve SUP 009-2020.

**Rob Skawinski:** Says that he would like to ask a question.

**Bill Austin:** Says that he may ask his question.

**Rob Skawinski:** Says that he would like to ask the Staff what their thought processes were behind Condition number four (#4) of the motion for approval for SUP #009-2020 and why is this condition being suggested.

**Charity Yonker:** Says in the Application material, the Applicant indicates that it may be required of them to conduct a Traffic Impact Study. The Applicant indicates if this is the case, they will pursue Condition #4. Likewise, the Application's material discusses the topic of traffic and possible traffic concerns or issues. If there are traffic issues, the County would like those issues to be mitigated.

**Rob Skawinski:** Asks what the experience has been requiring Applicants to obtain a Traffic Impact Study. He says that he has found that Traffic Impact Studies can be long and costly. He wonders if we are imposing something unnecessary on an Applicant, which may delay an Applicant's proposed project or add them unnecessary additional costs.

**Bill Austin:** Tells Mr. Skawinski that he has a good point.

**Charity Yonker:** Says that the County cannot speak as to how long a Traffic Impact Study will take. However, the Applicant's engineer and representative may know the answers.

**Rob Skawinski:** Asks if Mr. May would come forth and answer their questions.

**Kevin May:** Says he has reached out to the head of the Road and Bridge Division, Rick Schultz. He says that he still has not heard back from Mr. Schultz if a Traffic Impact Study is necessary. He says

from his experience if the daily traffic is under two hundred (200) trips per day, the Montana Department of Transportation (MDT) will not require a Traffic Impact Study. The time and the cost to conduct the study will vary depending on what factors Mr. Schultz would like the Applicant to evaluate as well as if they can reuse the older data. He says that it could take around two to three (2-3) months plus an additional two to three (2-3) weeks if they need to obtain new traffic data.

**Bill Austin:** Asks if Mr. May has asked the Road & Bridge Division their thoughts on having a Traffic Impact Study for the area.

**Kevin May:** Says yes, but he has yet to receive a response.

**Bill Austin:** Asks for Mr. Skawinski's opinion.

**Rob Skawinski:** Says that he also sees this condition of requiring a Traffic Impact Study to be listed on the next proposed motion for approval as well.

**Bill Austin:** Says that it appears that this condition has appeared on many other SUP Applications that have come before the Board as well that require access to the subject property.

**Rob Skawinski:** Says that he disagrees with the Chair that this condition is present on nearly all of the permits requiring access to the subject property. He says, however, there is a condition that he has seen in the past stating that the Applicant needs an Approach Permit. He says a Traffic Impact Study has not from his recollection been required for many of the SUP Applications.

**Bill Austin:** Says that he understands what Mr. Skawinski is trying to say.

**Rob Skawinski:** Says that he wonders how the Board feels if they were to amend the motion of approval to remove Condition #4.

**Charles Keuther:** Says that he would be willing to remove Condition #4 from the motion of approval that he has stated if the Board agrees to amend the motion.

**Bill Austin:** Says that he is in favor of amending the motion.

**Charles Keuther:** Asks if the Vice-Chair is in favor of amending the motion.

**Bill Austin:** Asks if the Vice-Chair is in favor of amending the motion.

**Michele Levine:** Says that she would normally be fine removing the condition from the proposed motion of approval. However, she is concern about the traffic around the elementary school. Nevertheless, she says that the Traffic Impact Study is probably not required by MDT as the traffic is most likely to be under two hundred (200) trips per day. Regardless, she says that traffic is a reoccurring issue that has come up before on other SUP Applications using the same road. She says that she would overall like to leave the condition in the motion for approval.

**Charles Keuther:** Asks for the Vice Chair's opinion on amending the motion to include a deadline for the Road and Bridge Division to get back to the Applicant.

**Michele Levine:** Says that she understands what Mr. Kuether is saying. However, she says that she is unaware of what Road and Bridges workload is or what is causing the Road and Bridge Division to delay calling back the Applicant. She says that Mr. Skawinski or Mr. May would be able to answer.

**Rob Skawinski:** Says that he does not have a good response to this question. He says that he finds that this condition will delay the Applicant's proposed project's progress. He also says that he finds it unnecessary that they add numerous immoderate conditions to Applications to appease the Public.

**Bill Austin:** Says that he would be in favor to amend the motion require the Road and Bridge Division to respond before the deadline of thirty (30) days.

**Charles Keuther:** Says that the reason he proposed such an idea was to help speed the process along for the Applicant.

**Charles Keuther:** Says that the reason he proposed such an idea was to help speed the process along for the Applicant. He says that as a lawyer it is customary practice to use deadlines.

**Rob Skawinski:** Says that thirty (30) days in the construction world is unrealistic, as the construction season is only nine (9) months out of the year. He says that he is certain that Mr. May will contact Mr. Schutz shortly and finally receive an answer. He says that overall, he wanted to discuss the length of time it will take to complete Condition #4 as it is significant.

**Bill Austin:** Says okay.

**Charles Keuther:** Says that they should leave the motion as is if it is Mr. Skawinski's preference.

**Bill Austin:** Calls for a second on the motion.

**Michele Levine:** Says that she seconds the motion.

**Bill Austin:** Calls for a vote.

*All in Favor, motion carries 4-0.*

**Charles Keuther:** Says that he would like to make another motion.

**Bill Austin:** Says okay.

**Charles Keuther:** Says, " [I] [m]ove the Board adopt the Staff Report and Findings of Fact, and approve the Special Use Permit #010-2020 to allow a Commercial Butcher on the subject property subject to the following conditions:

1. The Applicant obtains any other required county, state, or federal permits and complies with regulations associated with any other permits.
2. The Applicant obtains an address from the Cascade County GIS Department.
3. The Applicant obtains the necessary approach permit(s) from the Cascade County Road & Bridge Division.
4. The Applicant performs a Traffic Impact Study if required by the Cascade County Road & Bridge Division.
5. The Applicant obtains any necessary permits required by the City/County Health Department and/or the Montana Department of Environmental Quality."

**Michele Levine:** Seconds the motion for approval for SUP #010-02020.

**Carey Ann Haight:** Asks she could clarification on if this motion is for the Commercial activity on the subject property.

**Charles Keuther:** Says yes.

**Carey Ann Haight:** Thanks Mr. Kuether.

**Bill Austin:** Calls for a vote.

*All in Favor, motion carries 4-0.*

**Bill Austin:** Asks if the Board would like to take a short recess.

**Michele Levine:** Says that she would like to take a short recess.

**Bill Austin:** Says that they will take a five (5) minute break.

**BREAK STARTS AT 10:40 AM.**

**BREAK ENDS AT 10:50 AM.**

**B. SUP #011-2020 & VR #2020-003, Commercial Butcher & a Variance Request–Todd & Alena Standley**  
**[01:38:26]**

**1. Amber Hobbs presents the Staff Report.<sup>2</sup>**

**2. Motions:**

**Alternative 1:** “Move that Special Use Permit #011-2020 for a use of a ‘Commercial Butcher’ and Variance #2020-03 to **waive** part of the requirement of Cascade County Zoning Regulations § 7.2.4 (25), which reads “animals may not be stabled or processed within one (1) mile from any adjacent residences” be **denied** due to (ZBOA member proposing denial must delineate legal reason that the Application be denied);”

**Or**

**Alternative 2:** “Move the Board to adopt the Staff Report and **approve** Special Use Permit #011-2020 for a use of a ‘Commercial Butcher’ and Variance #2020-03 to **waive** part of the requirement of Cascade County Zoning Regulations § 7.2.4 (25), which reads “animals may not be stabled or processed within one (1) mile from any adjacent residences” at 1125 River Rd, Cascade, MT, referenced as Parcel # 0003801577 subject to the following conditions:

1. The Applicant obtains any other required county, state, or federal permits and complies with regulations associated with any other permits.
2. The Applicant obtains approval from the City-County Health Department for a Subsurface Wastewater Treatment System.
3. The Applicant obtains any necessary permits required by the City/County Health Department and/or the Montana Department of Environmental Quality.
4. The Applicant obtains addressing from the Cascade County GIS Department for E911 purposes.
5. The Applicant performs a Traffic Impact Study if required by the Cascade County Road & Bridge Division.”

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<sup>2</sup> Please see the attached Staff Report for SUP #011-2020 & VR #2020-003.

### 3. Board Discussion [02:18:52]

**Bill Austin:** Asks if the Board has any questions for the County Staff.

**Charles Keuther:** Says that he has a couple of questions. Regarding the Staff Report on page five (5) and six (6) Findings with Respect to the SUP Analysis Criteria #3, Staff Response states that there are five (5) dwellings within one (1) mile. He says that he is unsure if he is missing something as he counted only four (4) neighboring properties.

**Amber Hobbs:** Says that is correct to an extent. She says in the Staff Response, it states if the Applicant's Variance request is approved, then the Applicants will comply with our Zoning Regulations.

**Charles Keuther:** Asks if they are addressing the criteria with the assumption that the Variance request is granted.

**Amber Hobbs:** Says yes.

**Charles Keuther:** Says that he has another question regarding the Use Statement Form.

**Amber Hobbs:** Says yes.

**Charles Keuther:** Says on page two (2) of the Use Statement Form. The Applicant states that they are going to obtain a custom slaughter exemption and retail exemption license from the Department of Livestock.

**Amber Hobbs:** Says yes.

**Charles Keuther:** Says that exemption is not addressed in the motion for approval. He asks if these exemptions are something that they should be addressing or is it not necessary.

**Amber Hobbs:** Asks if he could repeat the question as she could not hear it.

**Charles Keuther:** Says that his question is regarding the Applicant's response on the Use Statement form.

**Amber Hobbs:** Says that she understands.

**Charles Keuther:** Asks that if they need to require the Applicant to obtain a custom slaughter exemption and retail exemption license from the Department of Livestock.

**Amber Hobbs:** Says that she finds that it would be required under Condition #1 of the motion for approval, which states, "The Applicant obtains any other required county, state, or federal permits and comply with regulations associated with any other permits."

**Charles Keuther:** Says that he is unaware if a custom slaughter exemption and retail exemption license from the Department of Livestock is similar to a permit.

**Amber Hobbs:** Says that she understands the confusion around the "exemption" and "permit." She says that the Applicant may have a better explanation.

**Charles Keuther:** Says that he was going to ask the Applicant that later on but thought that he might as well ask the County Staff to see what they know of it. He says thank you to Ms. Hobbs.

**Amber Hobbs:** Says thank you to Mr. Kuether for asking questions.

**Charles Keuther:** Says that is all of the questions that he has for Staff.

**Bill Austin:** Asks if the Board is ready for the Applicant to address the Board. Hearing none, he asks the Applicant if he would like to address the Board now.

**Todd Standley:** Says yes and addresses the Board. He gives a brief explanation describing his proposed small family-run business. He goes on to apologize in advance because he says that he is still a bit unfamiliar with our Zoning Regulations requirements and that he is new to the retail business. He says the retail aspect of this proposal is not critical to their present business plans. He says they will be applying in the future for a SUP to do retail for their business. Then, he moves on to explain what the State Department of Livestock oversees and permits. He says the Applicant before him, Mr. Bixler, is applying for a USDA butchering license, which is a more advanced license than what he is applying for. He says that there are three (3) distinct types of butchering licenses, USDA license facility, a state-licensed facility, and a custom exempt license facility.<sup>3</sup> He says a USDA-licensed facility can process livestock and sell their product across state lines. He says an in-state license facility can only sell in-state. Lastly, a custom exempt license implies that he can only butcher the animals. He says that cannot sell the products being produced for custom exempt products cannot be sold and can only be consumed by the owner of the animal being butchered. Alternatively, it can be consumed by the owner of the butchered animal's immediate family and the non-paying guest of the owner. The owner of the butchered animal is prohibited from selling the meat to someone else. Lastly, a custom exempt license implies that he can only butcher the animals. He says that cannot sell the products being produced for custom exempt products cannot be sold and can only be consumed by the owner of the animal being butchered. Alternatively, it can be consumed by the owner of the butchered animal's immediate family and the non-paying guest of the owner.

**Bill Austin:** Says that it makes sense to him and he understands that the Applicants' goal is to eventually have their business become a public retail business.

**Todd Standley:** Says yes and that when products are to be sold to the public they have to be inspected by the state or a federal inspector at the time of slaughter. He says if they are permitted in the future to add a commercial retail use to their business and obtain a retail license for meat processing, he could in the future take livestock to a meat processor with a USDA meat processing license, like Mr. Bixler, and have the meat processed and then retail sell the products.

**Bill Austin:** Says that presently if this was to pass, he could bring in a pig to be butchered for his family.

**Todd Standley:** Says yes.

**Bill Austin:** Says okay.

**Todd Standley:** Says that however the Chair could not legally sell the meat to anyone else.

**Bill Austin:** Asks if he could give it to his daughter.

**Todd Standley:** Says yes.

**Bill Austin:** Says thank you to the Applicant for an explanation.

**Todd Standley:** Says you are welcome.

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<sup>3</sup> For more information regarding Meat & poultry Processing in Montana please see [https://liv.mt.gov/Portals/146/MI/Processing\\_Plant\\_Guidelines.pdf](https://liv.mt.gov/Portals/146/MI/Processing_Plant_Guidelines.pdf).

**Bill Austin:** Says that he read his business plan and found it to be good.

**Todd Standley:** Compliments his wife for her work with writing their business plan out.

**Bill Austin:** Says to Mrs. Standley that it is a good business plan. Then, he asks if the Board has any further questions for the Applicant.

**Charles Keuther:** Says that he does not have a question but would like to properly thank Mr. Standley for the explanation as it clears up a few questions that he had regarding the Application as well as provided the Board with more information. He says that meat processing licenses are not something that the Board typically deals with. He says that his explanations made it clearer as to the direction that they wish to go with their business.

**Bill Austin:** Says that he agrees that the licenses were confusing to understand, but once Mr. Standley explained the differences. He understood it clearly.

**Charles Keuther:** Says part of what made it a good explanation, was that it was further explained to how they are advancing in the butchering business field works.

**Michele Levine:** Says to the Board and Mr. and Mrs. Standley that she was very fond of the Applicants' use of pictures, such as family photo portraits, pictures of the building, and the site plan. She found the pictures to be highly informative and enjoyed their overall view of the industry. She found their perspective and plans to be very educational. She also enjoyed their detailed explanations of their water usage and informing their neighbors in advance of their proposed business plans. She says that it is genuinely nice that their neighbors are also in favor of their business proposal.

**Bill Austin:** Asks if Mr. Skawinski has any questions or concerns.

**Rob Skawinski:** Says that he has none.

**Bill Austin:** Says that he was wondering if Mr. Skawinski has any comments on Condition #5 of the condition of approval.

**Charles Keuther:** Says that he was wondering if Mr. Skawinski would like to amend the motion of approval to remove Condition #5.

**Rob Skawinski:** Says that he would like to amend the motion of approval to remove Condition #5 that states that the Applicant obtains a Traffic Impact Study if needed.

**Charles Keuther:** Says that in consideration of the size of the proposed project, the operation and building are not as large as the last SUP proposal. He agrees to remove Condition #5 of the motion of approval.

**Michele Levine:** Says that she finds in this particular case that the Traffic Impact Study is addressed in Condition #1 of the motion for approval.

**Bill Austin:** Says okay.

**Michele Levine:** Says that she would like to have the City-County Health Department comment or address any potential water issues and processes.

**Bill Austin:** Says if the City-County would like to address the Board, he would not mind. However, he said that he did not find any issues regarding water for this proposal. He asks where the representative of the City-County Health Department is.

**Michele Levine:** Says the representative is Bruce Tries. She asks him if he has any comments to share with the Board.

**Bill Austin:** Says that he does not hear Mr. Tries.

**Charles Keuther:** Jokes that Mr. Tries is a strong silent type.

*[The Board laughs]*

**Sandor Hopkins:** Says that it seems as if he is not present.

**Bill Austin:** Says hearing no comment from Mr. Tries.

**Michele Levine:** Says that she does not hear any comments as well. She says hearing no comment, she presumes that any issues were addressed than in the Staff Report.

**Bill Austin:** Says okay and moves the Board to the Public Hearing for SUP #011-2020.

4. **Public Hearing opens at 11:46 AM, [02:34:08].**

**Proponents:** None.

**Opponents:** None.

**Public Hearing closes at 11:47 AM.**

5. **Board Discussion & Action, [02:35:28].**

**Bill Austin:** Asks if there are any other comments from the Board.

**Charles Keuther:** Says that he has no comment.

**Bill Austin:** Says hearing none, he will call for a motion.

**Charles Keuther:** Asks if Mr. Skawinski would like to make a motion.

**Bill Austin:** Calls for a motion.

**Michele Levine:** Says she will make a motion if Mr. Skawinski will not.

**Rob Skawinski:** Apologizes for being distracted and that she may make the motion.

**Michele Levine:** Says, “[I] [m]ove the Board to adopt the Staff Report and **approve** Special Use Permit #011-2020 for a use of a ‘Commercial Butcher’ and Variance #2020-03 to **waive** part of the requirement of Cascade County Zoning Regulations § 7.2.4 (25), which reads “animals may not be stabled or processed within one (1) mile from any adjacent residences” at 1125 River Rd, Cascade, MT, referenced as Parcel # 0003801577 subject to the following conditions:

1. The Applicant obtains any other required county, state, or federal permits and complies with regulations associated with any other permits.
2. The Applicant obtains approval from the City-County Health Department for a Subsurface Wastewater Treatment System.
3. The Applicant obtains any necessary permits required by the City/County Health Department and/or the Montana Department of Environmental Quality.
4. The Applicant obtains addressing from the Cascade County GIS Department for E911 purposes.”

And to omit Condition #5 of the proposed motion of Approval.

**Carey Ann Haight:** Asks if she also approved SUP #011-2020 as well as the Variance.

**Michele Levine:** Says yes that her motion for approval also includes approving both the Variance #2020-003 and SUP #011-2020.

**Carey Ann Haight:** Says thank you.

**Rob Skawinski:** Seconds the motion for approval.

**Bill Austin:** Calls for a vote.

*All in Favor, motion carries 4-0.*

**Bill Austin:** Asks if there is one (1) more New Business item on the Agenda.

**Michele Levine:** Says yes.

**Todd Standley:** Asks to speak from the Chair.

**Bill Austin:** Says yes.

**Todd Standley:** Says that he would like to thank the Board for their time today and give a special thanks to the Planner, Ms. Hobbs, the rest of the County Planning Department, and Mr. Treis from the City-County Health Department. He says these Departments have been amazing to work with. He says that the Planner, Ms. Hobbs, helped him and his wife with their Application. Overall, he says that he is incredibly grateful to the County.

**Bill Austin:** Says thank you to him as well and wishes Mr. and Mrs. Standley good luck on their business.

**Todd Standley:** Says thank you.

**Alena Standley:** Says thank you.

**Bill Austin:** [*inaudible*].

**Michele Levine:** Says thank you to the Applicants as well for their comments and says thank you to Ms. Hobbs for work and her use of inputting photos from her site visit of where the subject property is.

**Amber Hobbs:** Says thank you.

**Bill Austin:** Says thank you.

**C. VR #2020-001, Variance Request—Garrett & Katie Baney [02:40:07]**

1. Sandor Hopkins presents the Staff Report.<sup>4</sup>

2. Motions:

**Alternative 1:** "I move that the Board adopt the Staff Report and Findings of Fact and **deny** the Applicant's requested Variance from the residential construction requirements of Cascade County

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<sup>4</sup> Please see the attached Staff Report for VR #2020-001.

Zoning Regulations § 8.6 on the property at 81 Gibson Flats Road, Eaton Suburban Addition Block 4 Lot 9A, Section 20, Township 20 N, Range 4 E, Cascade County, MT.”

Or

**Alternative 2:** “I move that the Board reject the Staff Report and Findings of Fact and **adopt** the Board’s Findings of Fact and approve the Applicant’s requested Variance from the residential construction requirements of Cascade County Zoning Regulations § 8.6 on the property at 81 Gibson Flats Road, Eaton Suburban Addition Block 4 Lot 9A, Section 20, Township 20 N, Range 4 E, Cascade County, MT subject to the following conditions:

1. The Applicant will obtain all other necessary federal, state, and local permits and abide by all applicable regulations; and
2. The Applicant will obtain a Floodplain Permit from the Cascade County Planning Department and adhere to all applicable requirements of the Cascade County Floodplain Regulations; and
3. This Variance request will become null and void if work is done beyond the scope authorized by the Cascade County Floodplain Regulations.”

**3. Board Discussion [02:58:24]**

**Bill Austin:** Asks if the Board has any comments or questions for the County Staff.

**Rob Skawinski:** Says that he has a couple of questions. He asks if the County Staff can briefly describe the conditions that were not satisfied for the general public.

**Sandor Hopkins:** Says that some of the hardships prevent the Applicant from bringing in the necessary amount of fill, to obtain the Letter of Map Amendment (LOMA) from FEMA (the Federal Emergency Management Agency) and comply with our County Floodplain Regulations. The requirements for the fill are also tied with ARM (Administrative Rules of Montana) requirements, which dictate that the fill be brought to the base flood elevation and the structure constructed two (2) feet above the base flood elevation. If they found that the structure and the fill met these requirements, the County would support this Variance. However, he says as it is currently being proposed, he does not find it appropriate to make those findings.

**Rob Skawinski:** Asks where this information is being listed in the Staff Report.

**Sandor Hopkins:** Says that he is discussing the Analysis & Findings of Fact Criteria #2 and Criteria #3.

**Rob Skawinski:** Asks if presently the Applicant is proposing to not bring in the required fill to bring the structure into compliance, due to hardships.

**Sandor Hopkins:** Says that is a correct understanding, and that he has yet to determine where the hardship lays based on the materials that are listed.

**Rob Skawinski:** Says the hardship could be a financial hardship. He asks if they may ask the Applicant.

**Sandor Hopkins:** Says that he finds it appropriate. He says that he did not consider it to be a financial hardship as he looked only at the physical considerations of the property.

**Rob Skawinski:** Says that he understands that there was an existing house on the property

**Sandor Hopkins:** Says, "Correct."

**Rob Skawinski:** Says that he also understands that the Applicants wish to rebuild the house.

**Sandor Hopkins:** Says, "Correct." He then adds that if the Applicants wish to rebuild their house. They will have to make the house comply with the current regulations.

**Rob Skawinski:** Says, "Right."

**Bill Austin:** Says that he understands that the Applicants wish to put a modular home on the project site.

**Sandor Hopkins:** Says, "Correct."

**Rob Skawinski:** Says that he understands the cost of fill materials can be expensive. He finds that the cost could be a hardship. He asks if the cost is a hardship for the Applicant, could the County then recommend approving the Variance.

**Sandor Hopkins:** Says that he is unsure of how to answer the question. He says overall it is up to the Board to decide to approve the Variance or not.

**Rob Skawinski:** Asks if the County would be willing to make the recommendation to approve the Variance.

**Sandor Hopkins:** Says no as the proposed project would still conflict with the state law ARM 36.15.702.

**Rob Skawinski:** Asks if he could repeat the last part of his response.

**Sandor Hopkins:** Says that he said ARM 36.15.702 A.

**Rob Skawinski:** Says, "Yes."

**Sandor Hopkins:** Summarizes ARM 36.15.702 A.<sup>5</sup> He says that the Applicants have not demonstrated to the County how their proposal would comply with this rule.

**Bill Austin:** Asks if the Board approves of the Variance but the Applicant has not yet brought the proposed structure to the required elevation, whom shall be responsible if and when a flood comes. He wonders if the Board will be considered legally responsible for any substantial flood damage.

**Sandor Hopkins:** Says that is a matter to consider. He says there are alternative methods to help the Applicants build a structure that would comply with rules. He says however, it would not substantially diminish the possibility of litigation, such as the Applicant obtaining a Letter of Map Amendment (LOMA).

**Bill Austin:** Says "Hmm."

**Michele Levine:** Asks if it is possible for the Applicant to amend their Application to bring it into compliance or would the Applicants need to start over completely.

**Sandor Hopkins:** Says that he does not understand her question. He says if the Variance is not approved then the Application will need to be revised to come into compliance. He says that there is nothing that prohibits the Applicant from revising that.

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<sup>5</sup> To read ARM 36.15.702 please visit <http://mtrules.org/Gateway/RuleNo.asp?RN=36%2E15%2E702>.

**Michele Levine:** Asks if that would require a new Application and a new fee. She asks Ms. Haight for her opinion whether the Board has the option to remand the Application back to the Applicants to have the Applicants bring the Application into compliance or is the Board's only option to approve/deny the conditions as is.

**Carey Ann Haight:** Says typically before the Application reaches the Board, it is completed and waiting for the Board to make their final verdict. She says the Board may postpone making a final verdict by asking the Applicants for information and/or answers to the Board's pending questions. She says that she is unsure if she would call this an amended Application, but more of the Board requiring more information for the Board to make their final verdict. She says that Mr. Hopkins has noted that the Applicant has not yet provided additional information requested by the County. She says that is therefore unknown if or when the Board will be able to decide.

**Michele Levine:** Asks if it was conveyed to the Applicant that their Application did not meet all of the necessary criteria for a Variance and that the recommendation would be a denial from the County Staff.

**Sandor Hopkins:** Says that he did not convey that information to the Applicant.

**Maurizio Primiani at 4520 Lower River Rd. Great Falls, Mt 59405:** Introduces himself as the Applicant's, Katie Baney, father and asks for permission to speak.

**Bill Austin:** Says yes, he may speak.

**Maurizio Primiani:** Says that if the Board views the elevated fill plan submitted with the Application, the Board will see that placing fill on the subject property is not economical and will alter any potential floodwater currents. He wishes to only elevate where the new house will be located. He says that filling two (2) acres of land is unreasonable. He says that there is a drainage canal nearby that should take in excess water but is not being maintained. He says that the drainage canal is the reason they are consistently being flooded with the above water level.

**Bill Austin:** Asks if Mr. Primiani is believing that the Board and the County are asking Ms. Baney to raise two (2) acres of land with fill.

**Maurizio Primiani:** Says that interpretation is his understanding of the requirement that was mentioned by Mr. Hopkins. He says that the elevated fill plan was prepared by Big Sky Civil & Engineering (BSC&E). He says BSC&E calculated what would be a reasonable amount of fill that would meet the elevation requirements. He asks if he needs to fill the entire two (2) acres of land.

**Rob Skawinski:** Says that it is his understanding that the County and the State are requiring him to fill fifteen (15) feet outside of the building foundation limits.

**Michele Levine:** Says that is her interpretation as well by reading the ARM.

**Bill Austin:** Says that he also agrees that his interpretation is the same as the Vice-Chair and Mr. Skawinski.

**Michele Levine:** Says that they are required to place fifteen (15) feet of fill in all directions.

**Maurizio Primiani:** Says that he is unaware of many feet BSC&E are indicating on the plan that they have prepared.

**Rob Skawinski:** Asks how large is the modular home being placed on the property.

**Maurizio Primiani:** Says that it is a thirty by seventy-six or seventy-nine (30 x 76' ft. or 30 x 79' ft.).

**Rob Skawinski:** Says that they will say that it is thirty by eighty (30 x 80' ft. )

**Maurizio Primiani:** Agrees with Mr. Skawinski's rounding.

**Michele Levine:** Reads ARM 36.15.702-A(i). She says this law could help the Applicants, yet this modular home is not replacing a manufactured home as the original house was a stick-built home. She asks if her assumption that the original house was stick-built is correct.

**Maurizio Primiani:** Says yes.

**Michele Levine:** Says, "Okay." She says that ARM 36.15.702-2 says that new structures do require the placement of fill.

**Maurizio Primiani:** Says that his understanding is that the modular home has to be placed higher than several feet above the ground.

**Rob Skawinski:** Says that he has calculated that the Applicants would need a pad of sixty by a hundred feet (60 x 100' ft.) and hundred and twelve (112) cubic yards of fill for the subject property, which is rough around twenty-five to thirty-five thousand dollars (\$25,000.00 to \$35,000.00) to import the fill and place the fill. He says that this amount is a substantial amount of money, but Gibson Flats has a history of flooding over the years. Putting himself in the Applicant's perspective, he says he would find it necessary if he was to live in that area to have his home placed at the regulated elevated height to prevent losing the house again.

**Michele Levine:** Says that there may be future damage concurring with a new manufactured home in a flood area if the Board allows the Variance. She finds that the Applicant would be asking for trouble again if the Variance is approved, but the fill is not laid. She asks for Mr. Skawinski's opinion.

**Maurizio Primiani:** Asks how much taller the Applicants need to raise the proposed structure. He asks if the Board is discussing height or width.

**Rob Skawinski:** Says that the Applicants do not have to fill 2 acres of land with fill. However, they are being asked to build a pad that is five feet tall by sixty feet wide by a hundred and ten feet in length (5 x 60 x 110' ft.) to meet the fifteen (15) foot requirement and be above the base flood elevation line.

**Maurizio Primiani:** Says that he cannot tell by looking at the elevated fill plan how big the footprint is.

**Rob Skawinski:** Says that he roughly calculated how much fill it would be based on the size of the proposed modular home and the fifteen-foot (15 ft.) perimeter required by law. He says in short, the Applicants do not need to fill the entire two (2) acres of land.

**Maurizio Primiani:** Says that he understands what Mr. Skawinski is stating. He says that he is however unaware of the actual size of the modular home. He says that the home may already comply. He says that he will ask the engineer to explain it later on as he says that he does not see any signs of measurements on the plan.

**Rob Skawinski:** Says that elevated fill plan to him appears...

**Maurizio Primiani:** Says that they have some forms of measurement around the perimeters. He says that he would need to see what they presently have as he says the elevated fill plan does not tell him.

**Rob Skawinski:** Asks who drew the elevated fill plan.

**Maurizio Primiani:** Says that the plan was created by Mark Leo at BSC&E.

**Rob Skawinski:** Says okay.

**Michele Levine:** Says that she does not seem to find the elevated fill plan in her Board packet. She asks the Staff if that document was not included within the Board packet.

**Maurizio Primiani:** Says, "Yes."

**Rob Skawinski:** Says that he is unsure if he has a copy of the elevated fill plan in his Board packet as well.

**Michele Levine:** Says that she is unsure as well. Regardless, she says that the elevated fill plan is helpful.

**Maurizio Primiani:** [*inaudible*].

**Rob Skawinski:** Asks the County to zoom in on the plan.

**Destiny Gough:** Says yes.

**Rob Skawinski:** Says the elevated fill plan shows the contours of the pad and the measurements.

**Maurizio Primiani:** Says the measurements listed on the elevated fill plan for the proposed pad and fill.

**Rob Skawinski:** Says that the [*inaudible*].

**Sandor Hopkins:** Says that the elevated fill plan is attached to the Application.

**Rob Skawinski:** Asks Mr. Hopkins to repeat himself.

**Sandor Hopkins:** Says that the plan should be attached to the Variance request.

**Rob Skawinski:** Says okay.

**Sandor Hopkins:** Says that plan should be attached along with an Elevation Certificate.

**Charles Keuther:** [*inaudible*].

**Maurizio Primiani:** [*inaudible*] Later says that he does not have the documents that are listed in the Board packet.

**Rob Skawinski:** Says that he does not have a copy of the elevated fill plan in his Board packet.

**Charles Keuther:** Says that he does not have a copy of the elevated fill plan in his Board packet.

**Michele Levine:** Says that he does not have a copy of the elevated fill plan in his Board packet.

**Rob Skawinski:** Asks if the County Staff could return to the elevated fill plan posted.

**Destiny Gough:** Says okay.

**Rob Skawinski:** Says even on the elevated fill plan, he only sees an elevation of thirty-three hundred and fifty-two (3,352). He asks if anyone knows what the required elevation for the proposed structure is.

**Maurizio Primiani:** Says are you asking....

**Sandor Hopkins:** Says that the structure needs to be at an elevation of thirty-three hundred and fifty-seven (3,357).

**Rob Skawinski:** Says, "Fifty-seven [(57)]?"

**Sandor Hopkins:** Says that the pad would have to be at an elevation of thirty-three hundred and fifty-five (3,355).

**Charles Keuther:** Asks if that the Applicant needs two and a half feet (2 ½ ft.).

**Maurizio Primiani:** Asks if the Applicant's proposal is already at an elevation of thirty-three hundred and fifty-seven (3,357).

**Rob Skawinski:** Says per the proposal to place the proposed structure on four (4) feet of cinder block columns, it appears that the Applicants will need at an elevation of thirty-three hundred and fifty-seven (3,357). However, he says with the elevated fill plan the elevation may be thirty-three hundred and fifty-three (3,353). With that being said, he is unaware whether this plan is showing currently existing elevations on the subject property or proposed elevation heights.

**Maurizio Primiani:** Says that there is another elevation being listed on the elevated fill plan showing as thirty-three hundred and forty-eight (3,348).

**Rob Skawinski:** Says, Okay."

**Maurizio Primiani:** Says that the current pad is thirty-three hundred and forty-eight (3,348) and they would like to elevate it to thirty-three hundred and fifty-three (3,353). Then, he says with the cinder blocks under the proposed structure the elevation would then be thirty-three hundred and fifty-seven (3,357).

**Rob Skawinski:** Says okay and that he understands what Mr. Primiani is stating and restates what Mr. Primiani is trying to articulate.

**Maurizio Primiani:** Says that Mr. Skawinski's understanding of what he is trying to say is correct.

**Rob Skawinski:** Says that the elevated fill plan shows that there will be permanent flood opening gates around the columns to allow the flood water current to pass through under the proposed structure.

**Maurizio Primiani:** Says that the interpretation of the plan is correct. He says that Mr. Leo proposed to the Applicants as a solution.

**Rob Skawinski:** Asks if Mr. Leo is present.

**Maurizio Primiani:** Says no.

**Charles Keuther:** Says to Mr. Skawinski concerning ARM 36.15.702-2, if this proposal was in a mobile home park the Variance would be appropriate. However, this situation is not the case with this proposal, and it appears that there need to be another two and a half (2 ½) feet of fill to be protected from the floodwaters.

**Rob Skawinski:** Says that he thinks that if they place the fill down, then the Applicants would not need the flood opening gates, yet he is not fully certain.

**Charles Keuther:** Says that he thinks that the main floor has to be more than a certain distance.

**Maurizio Primiani:** Says that he has to be two (2) feet above base flood elevation.

**Charles Keuther:** Says that he finds the reason the Applicants have to have the cinder blocks in place to obtain the additional two (2) feet without adding more fill.

**Maurizio Primiani:** Says that he agrees with Mr. Keuther's understanding. He says that he will have to verify with the engineer, however.

**Charles Keuther:** Wonders if the Board should table Variance to obtain more information from the Applicant and have the Applicant work further with Mr. Hopkins and Mr. Leo for, he says that the

Application appears to him to be insufficient. He finds that the Board cannot presently approve of this Variance as it currently stands.

**Maurizio Primiani:** *[inaudible]*.

**Rob Skawinski:** *[inaudible]*.

**Maurizio Primiani:** Says that he has had several meetings with Mr. Hopkins and understood from Mr. Hopkins that they were following the regulations.

**Charles Keuther:** Says that the Applicants most likely did provide everything that Mr. Hopkins enquired. He says it appears once Mr. Hopkins did his analysis, he found it insufficient. He says if the Applicants modify the proposal or give the County and the Board additional information, the Application may be able to satisfy the required criteria and obtain approval from the Board.

**Maurizio Primiani:** Says that he is unsure of what the Applicants are lacking.

**Michele Levine:** Says so.

**Maurizio Primiani:** Asks whether they are lacking additional height on the proposed pad or something else. He says that it is unclear to him.

**Sandor Hopkins:** Says that he would like to reevaluate the Application and asks the Board for a timeline. He says that he would need to reevaluate and ask the Applicants to demonstrate how it is not feasible for the Applicants to meet the requirements. He says that the elevated fill plan is helpful but does not satisfy ARM 36.15.702-A(i).

**Charity Yonker:** Says that the exemption under ARM is for existing streets, existing utilities, existing lot dimensions, existing additions to existing structures. She says this exemption does not apply to new structures such as the proposed structure on the subject property.

**Michele Levine:** Says, "Umm—."

**Maurizio Primiani:** Says that it is a necessary replacement.

**Michele Levine:** Says that she recommends to both the Applicants and the Chair to table the meeting to obtain more information. She says to the Applicants that her understanding of the proposal is that it presently does not meet the criteria that the regulations require to approve of the Variance. She explains to Mr. Primiani and the Applicants how and why the County is stating that the Application is insufficient, as well as why the Board cannot approve of the Variance in its present condition. She says that it would best for the Applicants to go back and work with their engineers to see if they can either satisfy the criteria or demonstrate how they are unable to satisfy the criteria and comply with the regulations as well as how it causes unnecessary hardships.

**Rob Skawinski:** Makes a motion to table VR #2020-001 until the Board can obtain the additional information.

**Michele Levine:** Seconds the motion to table.

**Bill Austin:** Says that he agrees to table the Variance as he is unaware of how they can proceed forward with Variance Application as it presently stands. He calls for a vote.

**Carey Ann Haight:** Asks the Chair to wait.

**Charles Keuther:** *[laughs]*.

**Bill Austin:** Says why.

**Carey Ann Haight:** Says that they need to have a public hearing on the motion being proposed.

**Michele Levine:** Says that she agrees with Ms. Haight.

**Carey Ann Haight:** Says that they have not had any public comment yet for this agenda item.

**Bill Austin:** Understands Ms. Haight and says that he forgot.

**Michele Levine:** Thanks Ms. Haight for her interjection.

**Rob Skawinski:** Asks if a Board member can make a public comment.

**Michele Levine:** Says that they need to hear from the public first.

**Rob Skawinski:** Says, "Okay."

#### 4. Public Hearing opens at 12:41 PM, [03:46:25].

**Proponents:**

**Michele Levine:** Asks if the Applicants would like to speak.

**Katie Baney at 4520 Lower River Rd. Great Falls, MT 59405:** Says that this process has been arduous. She says that she is naive to the requirements and has found them difficult to comprehend, which is why her father, Mr. Primiani, has been assisting her in this process. She says that she appreciates the Board meeting today and considering this Variance. She wishes to not have this process go longer than they need it to be. Regardless, before anything gets denied, she would like to try to fix the situation to get the Variance and Application approved. She says that she has not been in her house since the spring of last year and she would like to go back to living on her property. She appreciates any of the help that she can get.

**Bill Austin:** says that he understands her longing to move back to her property, yet he is unsure how they can approve of something that may be a problem later on. The Board would also like to help the Applicant.

**Rob Skawinski:** Says that he finds the best way that the Board can help the Applicants is by tabling the Variance Application. He goes on to say that he lives in the floodplain and is sympathetic to the situation. He says if his house flooded and was destroyed, he would also have to go through the same process to rebuild it. He says that he deeply understands what the Applicants are having to go through. He says fortunately, he says his house has not flooded, but he cannot imagine if it did by chance flood. He says that he knows Mr. Leo is well versed in the regulations and laws. He says if the Applicants can get Mr. Leo to contact the Planning Department, they could get the situation sorted out to a point that the Application can go in front of this Board again and be approved.

**Maurizio Primiani:** Says that it makes no sense for them to continue trying to get it approved today. So, he says he will contact Mr. Leo and Mr. Hopkins later today.

**Michele Levine:** Says that it may also be possible for Mr. Leo to help the Applicants get the amended information needed.

**Charles Keuther:** Says that the Applicants should also ensure that Mr. Leo has a copy of the Staff Report.

**Maurizio Primiani:** Says that he will make sure that Mr. Leo has a copy.

**Michele Levine:** Says that Mr. Leo could also translate the different regulations that the Staff have discussed with the Applicants. She says that she recognizes that the texts are confusing and

understands her concerns. Nevertheless, the Board has to follow the laws and ensure that they are not putting any new structures in harm's way either.

**Maurizio Primiani:** Thanks the Board.

**Michele Levine:** Says thank you to Mr. Primiani.

**Bill Austin:** Says thank you to Mr. Primiani. Then, he calls for any other comments from the public.

**Michele Levine:** Says that they should make a motion now.

**Bill Austin:** Says that he wants to ensure that everyone gets an opportunity to speak. Hearing no more public comments, he ends the public hearing.

**Opponents:** None.

**Public Hearing closes at 12:45 PM.**

**5. Board Discussion & Action: [03:33:05]**

**Bill Austin:** Says that there has been a motion and a second to table the VR #2020-001. He calls for a vote.

*All in Favor, motion carries 4-0.*

**6. PUBLIC COMMENTS REGARDING MATTERS WITHIN THE BOARD'S JURISDICTION [03:33:21]**

**Bill Austin:** Says they are going to table the VR #2020-001 to obtain more information. He says that he is concerned as finds that there are shortcuts in flood areas, which is potentially dangerous.

**Maurizio Primiani:** Says that it is not his intention to take a shortcut. He says that the instructions were not clear, but they will sort things out, as they want to ensure that they comply with the laws.

**Charles Keuther:** Says that the Chair means to say that the shortcuts are on our end as a County. The County and the Board do not want to take a shortcut that could potentially cause someone unnecessary hardships.

**Bill Austin:** Says that Mr. Kuether is understanding what he means to say correctly.

**Maurizio Primiani:** Says that he understands now.

**Bill Austin:** Apologies for the confusion. He asks for the County or the Applicant to give the Board status updates on this Application, to keep this process moving along.

**Carey Ann Haight:** Says that the Planning Director may be able to weigh on this conversation. Since this item is now tabled, it will have to be placed on the Board's next scheduled regular meeting. If the Board needs to table the Variance again, it can be done.

**Bill Austin:** Thanks the Chief Civil Attorney.

**Maurizio Primiani:** Asks when that next meeting will occur.

**Charity Yonker:** Says that it is November 19, 2020.

**Maurizio Primiani:** Asks if she said November 19, 2020.

**Charity Yonker:** Says that is Thursday, November 19, 2020, at 9:00 AM.

**Destiny Gough:** Says, "No Problem."

**Maurizio Primiani:** Thanks the Planning Director.

**Bill Austin:** Asks if there are any other public comments. Hearing none, he moves to the next item on the agenda.

## 7. BOARD MATTERS [03:35:40]

**Bill Austin:** Asks if there are any Board matters.

**Charles Keuther:** Says that he has three (3) things that he would like to discuss. He says that he has heard that they are involved in some type of litigation, that the Board is unaware of. He says the first thing that he would like to discuss is that he heard that the County has hired a lawyer to represent the County and tried to reach out to the lawyer but has not heard anything back still from the lawyer. He was wondering if it would be appropriate for the County Civil Attorneys to speak on such a matter. The Second thing that he would like to discuss how the agendas are written. He would like to know who from the Planning Department will be handling each item on the agenda. Thus, he says if the Board has any questions regarding an item on the agenda, they may speak to the person assigned to that project. He says the last thing he would like to discuss is the fee schedule and the fee schedule for the Addressing Department.

**Bill Austin:** Says thank you for presenting some matters.

**Charity Yonker:** Address Mr. Kuether's second and third questions and concerns. She says the Planning Department could who is presenting on the agenda, however, sometimes it changes. She says if the Board contacts the Planning Office through email, they will be redirected to the person who is assigned to that project.

**Charles Keuther:** Thanks her for her reply.

**Charity Yonker:** She says as for the fee schedule. She says the Chief Civil Attorney touched on this topic last time it was discussed. She says the fees are underneath the Commissioners authority. She says that she has spoken to the County Commissioners about some of the fees. She says that the Special Use Permit Applications now state on the fee schedule that it includes the fee for the Location/Conformance Permit in the Application packages.

**Charles Keuther:** Says that is great.

**Charity Yonker:** She says that it makes it clearer. She says the Location/Conformance (L/C) Permit is a required permit under the Zoning Regulations. If a permit is not a zoning permit but requires an L/C Permit, the Applicant will have to pay a separate fee for both the non-zoning permit and the L/C Permit.

**Charles Keuther:** Says that it makes sense.

**Charity Yonker:** Says the GIS and Addressing Department is a separate department from the Planning Department. They are in charge of their fees, such as the Addressing Assignment fee.

**Charles Keuther:** Asks if there is any way that the Planning Department could coordinate with the GIS and Addressing Department to get their fee on the fee schedule changed.

**Charity Yonker:** Asks if he is asking if they can do a flat fee for the different items.

**Charles Keuther:** Says yes, as he finds multiple charges looks like we are shortchanging the public.

**Charity Yonker:** Says that part of the reason it is separate has to do with the Accounting Offices, that track the different revenues of income from the various departments. She says that Planning Department does share a space with the GIS and Addressing Department.

**Charles Keuther:** Says that it is what it is, but he wishes that it will not look like we are shortchanging the public. He moves on to ask who can address the litigation issue.

**Carey Ann Haight:** Says that she will address this topic. She says that we could include this topic to discuss in our agenda for this Board to help watch this litigation, under the Agenda item of Old Business. She then explains where the litigations are at.

**Michele Levine:** Asks what judge the litigation went before.

**Carey Ann Haight:** Says that she cannot recall and sees if Ms. Yonker can recall.

**Charity Yonker:** Says cannot recall presently as well.

*[Phone rings]*

**Carey Ann Haight:** Says that she will look into that and provide more details at the next upcoming meeting.

**Charles Keuther:** Says, "I—."

**Michele Levine:** Says that she would be interested in having the County give briefings on this litigation.

**Carey Ann Haight:** Agrees to provide more information at the next meeting.

**Michele Levine:** Asks if they would have to deal with the remand issue.

**Carey Ann Haight:** Says that the legal counsel has asked that they do not remand it back to the ZBOA at this time until they have a decision from the district court.

**Michele Levine:** Asks who is on the County's legal counsel.

**Carey Ann Haight:** Says two (2) of Montana Association of Counties' representatives are Susan Swimley and Tara Depuy.

**Michele Levine:** Says that the Board has met Ms. Depuy for some Board training.

**Carey Ann Haight:** Says yes, that she remembers that meeting.

**Michele Levine:** Says that Ms. Swimley is a great representative as well.

**Charles Keuther:** Says, " If you would—."

**Michele Levine:** Says that she must excuse herself from today's meeting as she must attend another meeting.

**Carey Ann Haight:** Says goodbye.

**Charles Keuther:** Says that he would appreciate it if the Staff did put the litigation on the agenda for the next meeting. He also appreciates having general information on the litigation, such as who is representing the County.

**Carey Ann Haight:** Apologizes.

**Bill Austin:** Asks if they are ready to adjourn the meeting.

**Charity Yonker:** Asks if the Board would hold on a little longer. She says that the County Planning Department has a new Code Compliance Officer, Mr. Kevin Nurre.

**Bill Austin:** Says, "Okay."

**Kevin Nurre:** Introduces himself to the Board and provides the Board with some background information on himself.

**Bill Austin:** Welcomes Mr. Nurre to the Planning Department.

8. ADJOURNMENT AT 12:58 PM, [03:46:00].

**Bill Austin:** Calls for a motion to adjourn.

**Charles Kuether:** Motions to adjourn

**Bill Austin:** Calls for a second.

**Rob Skawinski:** Seconds the motion for Adjourn.

*All in Favor, motion carries 3-0.*

DRAFT

**Attachments:**

DRAFT

**STAFF REPORT  
ZONING BOARD OF ADJUSTMENT**

**Thursday, October 29, 2020  
9:00 a.m.**

**SUP #009-2020  
SUP #010-2020**

**Subject Property Information**

Applicant Name: Bixler Properties, LLC  
Applicant Address: 3650 5<sup>th</sup> Ave S  
Great Falls, MT 59405  
Owner Name: Geraldine Acres, LLC  
Subject Property *Legal Description:* SW ¼ of S35 Less SE ¼ of SW ¼, T20 N, R01 E  
*Geocode:* 02-3013-35-3-01-01-0000  
*Parcel No.:* 0005919400  
*Zoning:* Agricultural (AG)  
*Land Use:* Undeveloped

Surrounding Land Uses & Zoning All surrounding properties are zoned AG and are undeveloped.

Requested Action: Approval of Special Use Permits 009-2020 & 010-2020 to allow General Sales and a Comercial Butcher at the subject property.

Applicable Regulations: Sections 7.1.2.3(1) and 7.1.1.3(4) and Section 10 Cascade County Zoning Regulations ("CCZR" or "Regulations")

**General Information:**

The Cascade County Zoning Board of Adjustment (ZBOA) is in receipt of two (2) Special Use Permit ("SUP") Applications from Bixler Properties, LLC to allow General Sales and a Comercial

Butcher at the subject property previously described. The Applicant is requesting that the SUPs be granted as required by Section 7.2.4(11)<sup>6</sup> and 7.2.4(25)<sup>7</sup> of the CCZR.

### **General Provisions**

A special use is a use for which conformance to additional standards will be required and shall be deemed to be a permitted use in its respective district, subject to the standards and requirements set forth herein, in addition to other applicable requirements of these regulations. All such uses are hereby said to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

A SUP may be issued only upon meeting all requirements in these Regulations for a specific use which is explicitly mentioned as one of the “Uses Permitted Upon Issuance of a Special Use Permit as Provided in Section 10” within the respective zoning districts contained in Section 7 or Section 8.1.5 hereof. After the public hearing is closed, the ZBOA can approve, deny, or approve with conditions the SUP. A separate SUP shall be required per each tract of land. The SUP fee shall be \$450.00.

### **Expiration**

The ZBOA approval of the SUP shall be valid for only one particular use and shall expire one year after the date of approval, if construction or the use has not started. The Zoning Administrator may grant a one-time only six (6) month extension of the ZBOA approval.

The SUP shall expire if the use ceases for six (6) months for any reason. Any further extension requests must be granted by the ZBOA prior to the date of expiration.

### **Findings of Fact:**

1. The property is in the Agricultural (“AG”) Zoning District. The proposed General Sales and Commercial Butcher are allowed in the AG District with the approval of a SUP.
2. Geraldine Acres, LLC is the legal owner of the property.
3. The property is not in violation of any Cascade County Zoning Regulations or any other County Ordinance.
4. The taxes on Parcel# 0005919400 are current as of October 13, 2020.

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<sup>6</sup> CCZR § 7.2.4(11): General Sales, including Agricultural Sales, Auction Sales, Convenience Sales, Shopping Center, Specialty Sales.

<sup>7</sup> CCZR § 7.2.4(25): Commercial propagation, boarding, grazing, or butchering of animals and fowl provided that the animals may not be stabled or processed within one (1) mile from any adjacent residences. The adjacent residences must be residences that are present prior to the date of receiving the application for this use. The operation can be used as a wholesale feed lot, meat packing plant, slaughterhouse, rendering plant, and the like.

4. Legal Notice of the Application and the public hearing was published in the Great Falls Tribune on October 11, 2020, and October 18, 2020. As of writing this Staff Report, the Planning Department has received one written comment(s)/concern(s).
5. A SUP may be revoked by the ZBOA at any time a building(s) or use(s) is deemed to be in violation of the standards and zoning requirements under which the SUP was issued. A violation of a SUP is a zoning violation under Section 13 of these Regulations pursuant to Section 10.11 of the CCZR.
6. Appeals of the ZBOA decision shall follow the process outlined in Section 12 of the CCZR.
7. The property consists of 120 acres, the Applicant will be applying for an Approach Permit from the Cascade County Road and Bridge Division off for an approach off of West Ulm Road, a county road.
8. The property is not located within a Military Overlay District.

#### **Findings with Respect to the Analysis Criteria**

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

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

Considerations:

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

*Applicant:* As shown on the attached exhibits, the property is adjacent to W. Ulm Road R/W and is located approximately 2.25 miles west of the Town of Ulm as shown within the Cascade County zoning map book. Traffic to/from the site will be via W. Ulm Road. It is anticipated that the majority of the traffic entering Ulm will be from Interstate 15 in addition to a small portion utilizing the Ulm North Frontage Road.

The average daily traffic (ADT) near the site as measured in 2017 is 456 vehicles per day within the Town of Ulm and 72 vehicles per day west of Ulm. These counts were measured on W. Ulm Road. The estimated southbound interstate exit ADT (per MDT's 2019 estimates) is 688 vehicle trips while the northbound interstate exit ADT is 219 vehicle trips. Per the MDT, Interstate 15 ADT is estimated as 7,045 trips per day.

The proposed processing facility is estimated to generate additional traffic as follows (Note:

vehicle trips are counted as 2 per person/vehicle to include incoming and outgoing traffic impacts):

- Staffing/employees: Ten (10) vehicle trips per day (Initial Startup @ 5 employees)
  - o Twenty-four (24) vehicle trips per day (Full capacity @ 12 employees)
- Animal Import: Eight (8) vehicle trips per day (Initial Startup @ 20 animals/week)
  - o Twenty (20) vehicle trips per day (Full Capacity @ 50 animals/week)
- Retail customers: Assume equal to animal delivery + 4 vehicle trips per day for minimal storefront customers (12 trips/day @ startup & 24 trips per day @ full capacity)
- Finished Animal Export: As retail customer traffic generation includes a pickup event for each animal delivered for processing, it is not anticipated that animal export by the Butcher Block will generate additional traffic beyond what is currently included. Bulk import and export of more than 1 animal within a trip will reduce anticipated traffic generation.
- Solid Waste Pickup: Assume six (6) trips per week (3 scheduled trash pickup events per week)
- Misc. Material Delivery: Assume six (6) trips per week (Production Supplies, packaging, etc.)

**Daily Traffic Generation Summary**

<b>Traffic Generation Activity</b>	<b>ADT @ Initial Build</b>	<b>ADT @ Full Capacity</b>
Staff/Employees	10	24
Animal Import for Processing	8	20
Retail Customers (Meat Pickup & General Retail)	12	24
Finished Animal Export	N/A	N/A
Solid Waste Pickup	1	2
Misc. Material Delivery	1	2
<b>Total</b>	<b>32</b>	<b>72</b>

As detailed above, the development is anticipated to generate between 32 and 72 vehicle trips per day, a 16% increase over the current ADT within W. Ulm Road at full capacity.

Peak daily traffic impacts are expected to occur just prior to and after work shifts, generating approximately twelve (12) additional vehicle trips between 6:00 and 7:00 a.m. and again between 4:00 and 5:00 p.m. Vehicles will enter and exit the facility from Ulm.

The Cascade County Road & Bridge Department will require an approach permit to connect the facility approach to W. Ulm Road and may require a traffic impact study (TIS) for the purpose of identifying any/all requirements for mitigating traffic impacts. The TIS will be completed by a Montana-licensed professional engineer with the appropriate qualifications and experience, if necessary. A draft approach permit application is attached to this application; however, final approach design will require coordination with the Road & Bridge Department to ensure adequate drainage is maintained within the existing ditches as well as accommodate design traffic anticipated at the site.

The Cascade County Zoning Regulations permit a wide range of uses in the Agricultural Zoning District, including many that generate significant amounts of traffic such as campgrounds and recreational vehicle parks, commercial dairies, power plants, and community centers. Additionally, an event wider variety of land uses which generate significant levels of traffic are allowed via a special use permit, including quarries, veterinary clinics, mobile home parks, equipment rental and sales facilities, hospitals, and many others. Therefore, the Zoning Regulations anticipate and accommodate land uses generating traffic volumes similar to what is proposed as part of this SUP.

It is anticipated that the proposed facility will create an additional amount of traffic that can easily be handled by W. Ulm Road without affecting its level of service. Turning movements in and out of the facility will be controlled within a new County-approved approach. It is also anticipated that the existing W. Ulm Road and Ulm Vaught Road paved intersection will be acceptable for continued use. The amount of traffic generated by the site is consistent with both permitted land uses and those allowed and anticipated by the zoning regulations and will to have a material, negative effect on traffic conditions.

**Staff:** After review of the extensive information submitted, Conditions #3 & #4 are proposed to mitigate any traffic condition concerns in the vicinity by ensuring the Applicant performs any analysis needed and obtains the necessary approach permit(s) from the Cascade County Road & Bridge Division.

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

**Applicant:** The propose facility will be served by onsite public water and wastewater facilities. Wastewater treatment will be completed onsite using Montana DEQ-approved wastewater treatment system(s). Commonly practiced treatment technologies will be used for managing both domestic and process waste streams. Wastewater treatment will likely include a standard septic system with grease interceptor for primary wastewater treatment with advanced secondary treatment prior to disposal within a subsurface drainfield. Additionally, waste generate during initial slaughter will be captured and disposed with the offal to eliminate it from the waste stream.

Water for the facility operations and domestic usage will be supplied to the facility via an onsite well with transmission piping to the building.

The water and wastewater systems for the site must be reviewed and approved by the Montana DEQ. Fire protection is not anticipated ot be required for the building per applicable State Building Codes. The site is located within the Ulm #13 fire district and will be served by the Ulm Volunteer Fire Department.

Natural gas service is likely not feasible for the property due to the cost of service extension and it is therefore anticipated that onsite liquid propane will be utilized. Telecommunications will likely be provided by Charter or CenturyLink through a new service line to the proposed development. The applicants are also considering the use of wind turbines an/or solar panels for the generation of supplemental electrical power as well as the use of intermediate water heating devices in the event financial feasibility is realized.

Solid waste collection is anticipated to be completed by Republic Services (formerly Montana Waste) which serves the current facility.

**Staff:** The subject property is located within the Ulm Volunteer Fire Department's district. Interested Agency notifications were mailed out on October 8, 2020. No comments have been received as of writing this report. Condition #5 will require the Applicant to obtain any necessary permits from the City/County Health Department and the Montana Department of Environmental Quality ("MDEQ").

- c. Soil erosion and sedimentation.

**Applicant:** Construction and development of the proposed facility will include the construction of new buildings, gravel-surfaced parking and storage areas, wastewater treatment and disposal facilities, and related items. This construction is consistent with permitted land uses in the Agricultural Zoning District. In the short-term, during construction, there will be an increased possibility of soil erosion and stormwater run-off consistent with typical construction activities. Traditional erosion and sediment control best management practices (BMPs) will be utilized during construction which will include but are not limited to silt fences, straw wattles, and storm water detention and retention ponds.

As the site disturbance will be over 1 acre, a DEQ “General Permit for Storm Water Discharges Associated with Construction Activity” permit will be required and will address and mitigate soil erosion and sedimentation during construction. This permitting process will involve the submission of a Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) to DEQ. Additionally, the SWPPP will need to be updated and maintained throughout the course of the project. Upon completion of work and after final site stabilization has been completed, a Notice of Termination (NOT) will be submitted to DEQ, at which time the permit will officially terminated.

BMP’s suggested by the DEQ will be utilized throughout construction to maintain water quality and minimize soil erosion. Following construction, stormwater runoff will be collected within onsite detention and retention/treatment basins and discharged at predevelopment rates in strict accordance with DEQ Circular 8.

As detailed within the NRCS Soils Report, soils at the proposed facility are generally described by NRCS as Absher-Nobe complex (0%-5% slopes) and Assiniboine-Absher complex (0%-2% slopes) and Benz clay loam (0%-2% slopes). These soils predominantly consist of clay loam and sandy clay loams and are considered erodible. BMP’s selected during and after construction will be installed and maintained to minimize the erosion potential for the native soils.

Upon completion of construction, there are no anticipated significant impacts for erosion, sedimentation, and stormwater runoff. Impacts will be consistent with an increase in impervious surfaces; however, these impacts will be mitigated using appropriate BMPs, storm water detention, and other applicable regulatory requirements. Revegetation of disturbed areas combined with proper storm water collection and detention as required by the DEQ’s storm water permit will minimize impacts to the site. Additionally, water leaving the site will be properly treated (i.e. sediment removal) and flows will be maintained at predevelopment rates.

**Staff:** The subject property consists of 120 acres. With the two proposed structures and the fact that over one (1) acre will be disturbed, the Applicant will be required to obtain all necessary permits required by the City-County Health Department and the MDEQ.

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

**Applicant :** As detailed within the attached Groundwater Information Center mapping, there are no public, community, or private water supplies on the property. There are a variety of private wells in the vicinity of the subject property primarily serving individual homes and agricultural operations. The only well within one mile of the facility is GWIC 125734 which is approximately 0.9 miles from the proposed facility.

The proposed facility will require domestic and process water with estimated volumes of between 750 gpd at initial startup and 1,875 gpd at full capacity, which equates to 0.60 & 1.50 acre-feet/year respectively. The facility is anticipated to target the Madison Aquifer for water supply and it has been demonstrated that the Madison formation can easily satisfy these volumes. The depth to the Madison formation at this location is estimated to be approximately 825 feet bgs (below ground surface) and the aquifer is estimated to be approximately 500 feet in thickness based on the nearby well log. A well contractor will be employed to construct a test well and provide test pumping (as part of the DEQ public water supply permitting) to demonstrate adequate supply for the facility as well as document potential impacts, if any, on neighboring wells. As shown, the proposed facility is anticipated to require approximately 1.5 ac-ft/yr of water for operation, which is well within the limit of 10 ac-ft/yr for an exempt well.

A new public water supply will then be constructed to serve the development. Well construction and protection requirements of DEQ Circulars 1 & 3 and the Administrative Rules of Montana will be strictly adhered to so as to protect the new public water supply and groundwater within the general vicinity of the project.

Surface waters in the vicinity of the project will be protected by maintaining effective runoff collection and conveyance systems to direct stormwater to onsite retention and detention ponds where it can be detained and treated prior to discharge. Discharge will be restricted to predevelopment rates.

All wastewater treatment and disposal will be designed such that they are safeguarded against impacts to local groundwater and surface water by utilizing best management practices to avoid leaks and spills.

Additionally, all setback distances as required by the Montana DEQ will be strictly maintained between water supply wells and potential hazards so as to limit contamination potential.

**Staff: According to the Application, a new public water supply will be constructed for the development. The closest well to the facility is 0.9 miles away from the proposed facility. The Applicant will need to obtain all permits required by the City/County Health Department and MDEQ. No comments were provided by the City-County Health Department as of the writing of this report.**

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

Considerations:

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

**Applicant:** Land uses in the vicinity primarily consist of large-scale agricultural operations. The proposed meat processing facility will be located more than one mile from any existing dwelling or agricultural buildings. Possible conflicts are expected to be minimal, but could include additional traffic, visual changes (additional buildings, minimal night-time lighting), and some noise generally consistent with currently permitted livestock operations. Additionally, the Butcher Block facility design team will utilize building buffering features to help mitigate noise and visual impacts whenever possible.

The proposed development is agriculturally based and thereby complements existing uses of the surrounding properties. Additionally, the facility's location was selected to maximize the distance from existing residences to reduce the potential impacts to neighboring properties. Visual impacts can be mitigated by implementing exterior lighting technologies to direct lighting downward to reduce or eliminate glare and offsite lighting "pollution." Traffic has been addressed previously in this document.

Permitted land uses in the Agricultural zoning district have the potential to create similar conflicts. Agricultural operations, by their nature, tend to generate dust and odors associated with tilling, planting, harvesting, and the use of chemicals. Additionally, permitted livestock operations will generate similar impacts from odors, dust generation, and noise impacts to those anticipated by the proposed development. The proposed facility's impacts will be similar to those land uses already permitted by the zoning district and can be mitigated using readily available measures.

**Staff:** The proposed structures and uses are similar to the surrounding land use of large scale agriculture. The Applicant has addressed the additional traffic that could be generated as well as stated that they will utilize buffering features to minimize noise and visual impacts when possible. Attached is a buffer map showing there is no residences within one (1) mile of the proposed facility site. No conflicts are anticipated and no public comments in opposition have been received as of writing this report.

- b. Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or county as whole, to justify it regardless of its impact on the value of adjoining property.

**Applicant:** This consideration is an alternative to the previous one and need not be met. This consideration exists to allow approval of a special use permit in the rare instance that a proposed land use is so important that its impacts should be accommodated. The developer is not making such a claim with respect to its proposed processing facility.

All development allowed by the zoning district regulations, whether as a permitted use or as one requiring a special use permit, creates some level of impact. This is expected and appropriate. All potential impacts created by the proposed facility can and will be appropriately mitigated and minimized such that there will be no appreciable impact on public health, safety, and the general welfare of the community or County. Additionally, the facility will also provide some benefits via increased tax base and the addition of jobs for area residents and will utilize livestock that is produced in and around Cascade County and throughout northcentral Montana, benefiting local producers.

**Staff:** No negative impacts on the value of adjoining properties are expected due to the proposed building conforming with the surrounding land uses. If the applicant meets the requirements and receives approval of all required permits, any issues with the public health, safety, and general welfare of the community should be mitigated.

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

Considerations:

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

**Applicant:** Land uses in the vicinity primarily consist of large-scale agricultural operations. As noted on Montana Cadastral (refer to Appendix D), the surrounding area is comprised of agriculturally zoned properties with areas of animal grazing, fallow land, and wild hay. As shown, some surrounding properties contain single-family residential dwellings; however, the residences exceed the required 1-mile setback requirement.

The proposed project consists of a meat processing facility and the developer acknowledges that the facility itself is different than land uses in the immediate vicinity; however, the facility is agriculturally based and the direct use is permitted with a special use permit. The manufacturing, processing and storage components of the facility are specifically contemplated by the zoning district regulations and as required by the County's zoning regulations, no buildings or operations will be located within one mile of existing residences. This one-mile+ buffer will help mitigate any perceived conflicts with the existing residences and maintain compatible land uses with the other surrounding properties. Large portions of the property outside of the proposed development will remain in agricultural production which is consistent with and in harmony with adjacent land uses.

**Staff:** The proposed structure and uses are comparable in intensity with surrounding land uses and are agriculturally based and confined to a small part of a 120-acre property. The general sales will be of the meat that is processed at the facility. No conflicts are anticipated and no public comments have been received.

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

Considerations:

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

**Applicant:** The proposed project is located outside of the boundaries of the Malmstrom AF Base and its associated vertical obstruction zones. Additionally, the proposed project area is not within the Military Affected Areas (MAA) associated with launch/missile alert facilities I-10 & I-03 as shown on Figure 4.2- 2 of the JLUS document. As the project will not impact the military planning areas detailed within the JLUS document, the project is considered consistent with the plan.

Additionally, the potential implementation of wind turbines for renewable energy generation will be coordinated with the FAA, Cascade County, and MAFB as needed to maintain consistency with planning efforts completed by all agencies.

**Staff:** The proposed Commercial Butcher facility and General Sales is consistent with the Growth Policy.

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

- A. *Stimulate the retention 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:** The proposed project will allow for an existing Cascade County business to relocate and expand in order to provide additional employment opportunities while expanding the ability to meet increasing meat processing demands of local residents and businesses. This expansion and retention of an existing business directly meets the Cascade County Growth Policy goal. Additionally, the project is directly related to the agriculture industry in the region and will allow area residents and businesses an opportunity to have their livestock processed locally.

**Staff:** The proposal will have a positive impact as a current agricultural business will be expanding to a location where they can provide more services on one site at a larger quantity. The proposal will support local agriculture by keeping the industry and the products local to support our local economy and will contribute to a more sustainable agricultural economy and work force. Meat distributions will be improved by utilizing direct-to-consumer and direct-to-retailer distribution methods.

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

**Applicant:** As noted above, the proposed project will increase the County's tax base with the implementation of this project. Additionally, implementation of the project will allow local producers a local facility for meat processing which will decrease shipping costs and the associated environmental impacts from long-haul trucking of livestock. This availability for local meat processing will allow area farmers and ranchers to realize more efficient use of their current grazing lands while reducing weight and profit loss due to shipping, further enhancing the goals of the County's growth policy.

As noted previously, the applicant is researching the possibility of incorporating wind turbines and/or solar energy to utilize sustainable resources and offset some of the energy requirements for the site.

**Staff:** The proposal will generate tax revenue by expanding the business. The proposal also gives local farmers and ranchers a local resource to use for their operations.

- 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:** The proposed business is agriculturally-based which complements the existing primary land use of area residents and maintains compatibility with the surrounding area and County as a whole. The business will also utilize livestock provided by area residents which will help strengthen the local economy as well as utilize available assets from local producers.

**Staff:** The proposal is expanding an existing business that complements and supports other existing businesses around Cascade County including other agricultural operations and local consumers.

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

**Applicant:** The proposed development has the potential to help develop tourism and cultural resources within the County as the added taxes collected from the development are put into beneficial use. Given the facility's location on currently vacant land, it is anticipated it will have no impact on cultural resources or existing tourism opportunities. Additionally, the Montana State Historic Preservation Office (SHPO) was contacted regarding the project and no previously recorded cultural resource sites were noted within the property. Refer to the attached letter from Damon Murdo with SHPO for additional information (Appendix E).

**Staff:** The proposal would not directly impact the development of cultural resources or tourism.

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

**Applicant:** The proposed project has the potential to stimulate additional agriculture business ventures as existing and new businesses realize the expanded business opportunities associated with the USDA- permitted plant for potential value-added opportunities. The addition of the Butcher Block facility to the local economy will allow local retailers and businesses to market local livestock with more competitive processing fees due to reduced shipping costs associated with local processing. As noted within Appendix E and as detailed within this application, the applicants have received commitment letters from existing livestock operations in the region, showing support for the project.

**Staff:** The proposal could positively impact and stimulate well-planned entrepreneurship among the county's citizenry by expanding as a local resource for other businesses in Cascade County.

*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:** While the proposed development will not directly impact the local chamber of commerce, the implementation of a local USDA-permitted meat processing facility will allow local business development organizations to market the area for additional value-added business opportunities that can utilize the facility to encourage further economic development beyond the plant. As shown within Appendix E, local producers and businesses have expressed support for the project for this very reason.

**Staff:** The proposal supports Goal 1 (F). The Application material contains eleven (11) letters of support for the proposed business from locals that would use the facility for processing their livestock.

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

**Applicant:** As indicated within this application, the proposed project is anticipated to employ approximately 7 additional persons beyond current staffing levels. The projected influx of workers and their families will have a positive economic impact on the community and County including supporting existing businesses. Additionally as noted above, the implementation of the

project will provide existing local businesses and producers a location for local livestock delivery and processing which will improve agriculture opportunities in the region.

**Staff:** The proposal has the opportunity to create employment as well as serve as a resource for businesses and producers to have their livestock delivered and processed locally saving other local businesses and producers operation costs while adding to the tax revenue in Cascade County.

*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:** See previous responses.

**Staff:** The proposal will give Cascade County an expanded local resource that could possibly be used by other counties and could positively impact the networking or support of economic development efforts in the region.

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

**Applicant:** The proposed project is being developed to directly support and expand local livestock operations as well as commercial operations secondary to the processing of meat products. As shown in Appendix E, the project is supported by local producers and businesses which shows a commitment by the developer to include area producers within their business plan to encourage further growth of the economy.

**Staff:** The proposal is for the expansion of an agricultural business. The Application materials include eleven (11) supporting letters from other agricultural operations in the area showing interest. The proposal functions to provide a local link between local producers and consumers and may help facilitate and encourage regional pride and strengthening community ties. When locally processed food is available to local consumers, it helps keep money within the community that assists in diversifying the local economy.

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

**Applicant:** The project developers are currently reviewing the feasibility of incorporating alternative energy generation within the overall development plan. Where possible, alternative energy consisting of wind energy, solar energy, and energy efficient development will be incorporated into the project.

**Staff:** The Applicant is considering alternative methods of energy generation and will incorporate it if a feasible method is found. If not, this proposal will not negatively impact the economy by not incorporating the use of alternate methods of energy production.

**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:** The proposed facility will only encompass approximately 4 acres± of the overall 120 acre agriculturally-zoned parcel. This reduced development footprint will allow the remainder of the parcel to remain in agricultural use following the project. Additionally, the project is agriculturally based and therefore fosters the continuance of ag activities in the region.

**Staff:** The subject property consists of 120-acres with the proposed facility being confined to a small portion of that (around 4 acres). The rest of approximately 16 acres will 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:** The property at which the proposed project will occur is currently vacant agricultural ground which will be maintained to the greatest extent possible following the development. Available land following the project development can continue to be utilized for farming activities to preserve the existing land use. No streams, existing fisheries, or forests will be impacted by the proposed project.

**Staff:** The addition of the facility on a 120-acre parcel will have minimal impact on Goal 2 (B).

- 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:** As noted above, the project is agriculturally based and the developed parcel will house the proposed structures, wastewater treatment and water supply systems. As detailed within the Cascade County Zoning Regulations, the proposed facility is required to maintain a minimum buffer of 1 mile from existing residences, making development within an existing town unacceptable. As noted above, the proposed project will only utilize approximately 4 acres of the overall 120 acres of available property, allowing a large majority of the open space to remain as such. The development is being designed by a team of trained professionals who specialize in developments of subdivisions and facilities of this nature.

**Staff:** The proposed facility would be located approximately two (2) miles west of the town of Ulm. The proposed use is agricultural in nature and is required to be at least one (1) mile from existing residences.<sup>8</sup>

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<sup>8</sup> CCZR § 7.2.4(25): Commercial propagation, boarding, grazing, or butchering of animals and fowl provided that the animals may not be stabled or processed within one (1) mile from any adjacent residences. The adjacent residences must be residences that are present prior to the date of receiving the application for this use. The operation can be used as a wholesale feed lot, meat packing plant, slaughterhouse, rendering plant, and the like.

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

**Applicant:** The design firms retained for the facility have been tasked with creating a functional site and facility design while utilizing strategic placement of buildings to take minimize impacts to the existing environmental and minimize impacts to existing roadway improvements. The development plan will include design measures directly targeted at mitigating odors, noise and light pollution and will include separate, refrigerated offal storage to minimize odor generation. The DEQ permitting associated with the proposed public water and public wastewater systems will ensure clean surface and subsurface water is maintained during construction as well as after the facility is in full operation. Note, noise and odor generation for the proposed project will not differ substantially from allowable livestock operations onsite.

**Staff:** According to the Application materials and the Applicant's responses they are looking into design features to mitigate any potential issues regarding the appearance of the facility. The Applicant will be required to obtain all necessary permits from the City/County Health Department as well as MDEQ. The City/County Health Department has not submitted comments or concerns regarding this project. Further, a locally sourced meat processing facility will reduce local producers' costs for shipping over long distances for processing, which will reduce gas and gas emissions associated with transportation. The retail sale of the meat processed on site will also help offset potential environmental impacts created by the demand and necessity for nation-wide food shipments.

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

**Applicant:** While the project will not directly support development of timber, mining or oil & gas production, renewable energy options are being considered for the property if and when deemed feasible.

**Staff:** The proposed land use is not expected to support the development of natural resources.

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

**Applicant:** The project is not located in an area undergoing Superfund or Brownfield processes.

**Staff:** The location of the proposal is neither a Superfund nor Brownfield site.

### **GOAL 3: Maintain Agricultural economy**

*A. Protect the most productive soil types.*

**Applicant:** Refer to the attached NRCS soil report. As shown on the soil report, all portions of the property associated with the proposed development are considered "Not Prime Farmland" which directly meets the applicable zoning goal. Additionally, as noted

above, a large portion of the site will remain open space following development of the proposed facility. Encouraging further utilization of existing farm and rangeland.

**Staff:** Referencing the NRCS Soil Report in Appendix E of the Application materials (and online<sup>9</sup>), the portion of the property proposed to be developed is not considered prime farmland of statewide importance.

*B. Continue to protect soils against erosion.*

**Applicant:** During construction activities, the site will be required to meet Montana DEQ standards for erosion protection through the general construction storm water permitting process. A storm water pollution prevention plan (SWPPP) will be prepared by properly trained and certified personnel, and temporary Best Management Practices (BMPs) will be implemented onsite to minimize erosion during the course of construction and to prevent adverse impacts to receiving waters (i.e. Missouri River).

Following construction, permanent BMPs will be implemented so as to minimize erosion on slopes within the steeper portions of the property while agricultural activities will remain on other open space. All disturbed areas within the proposed development will be stabilized via gravel surfacing or will be planted to grass following development to satisfy the requirements of the DEQ Storm Water Permit as well continue to protect soils against erosion.

**Staff:** The Applicant will be required to meet all construction standards pertaining to necessary permits.

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

**Applicant:** The proposed project is located outside of the FEMA floodplain boundaries as detailed within FIRM Panel 30013C0575E. Work activities will not occur within an active streambed or within a floodplain.

**Staff:** The property is not located within the regulatory floodplain.

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

**Applicant:** As noted previously, the intent of the proposed project is to develop a meat processing facility that utilizes livestock from area producers which directly supports the development of a value-added agriculture industry. Additionally, meat products will be produced onsite which utilize the processed livestock which also supports the development of value-added agriculture.

**Staff:** The proposed facility would have positive impacts on the development of value-added agricultural industry in Cascade County by utilizing the products from the regional area.

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<sup>9</sup> <https://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm>

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

**Objectives:**

A. *Encourage the federal congressional delegation to actively support maintaining the current mission status at a minimum.*

**Applicant:** While the proposed development will not directly impact the US Military's operations in Cascade County, the applicant recognizes the importance of the current military missions and their impact on the local economy. As noted previously, the proposed facility will not impact the existing or future US Military operations within Cascade County and is in compliance with the JLUS document.

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

**Applicant:** The applicant hereby pledges its support to Cascade County in promoting additional military missions in Cascade County. Also, please see response to Goal 4 Objective A above.

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

**Applicant:** The applicant hereby pledges its support to Cascade County in reactivating the runway at MAFB for fixed wing operations. Also, please see response to Goal 4 Objective A above.

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

**Applicant:** The proposed project is located outside of the boundaries of the Malmstrom AF Base and its associated vertical obstruction zones. Additionally, the proposed project area is not within the Military Affected Areas (MAA) associated with launch/missile alert facilities I-10 & I-03 as shown on Figure 4.2-2 of the JLUS document. As the project will not impact the military planning areas detailed within the JLUS document, the project is considered consistent with the plan.

**Staff:** The proposed Commercial Butcher facility will have no impacts on the mission at Malmstrom AFB. The property is located outside of all Military Overlay Districts and the nearest missile launch facility is approximately five (5) miles away.

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

**Objectives:**

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

**Applicant:** The proposed project will not impact the County's citizens' independent lifestyle and will not require local governmental intervention.

**Staff:** The proposal will not have an impact on Cascade County's citizens' independent lifestyle or local governmental intervention.

*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:** The Montana State Historical Society (SHPO) was contacted regarding potential cultural resources at the proposed project site and their response stated that no cultural resources were located within their files for the property. Per the SHPO response letter, "Based on previous ground disturbance in the proposed project area we feel that there is a low likelihood cultural properties will be impacted. We, therefore, feel that a recommendation for a cultural resource inventory is unwarranted at this time. However, should structures need to be altered or if cultural materials be inadvertently discovered during this project, we would ask that our office be contacted, and the site investigated." As no existing structures are located on the subject property, it is anticipated that no cultural heritage sites will be impacted by the proposed project. The proposed project consists of a small-scale meat processing facility that utilizes local livestock raised by area residents which promotes the continued agricultural lifestyle and cultural heritage of our region.

**Staff:** The proposal will not impact Cascade County's cultural heritage. Referencing Appendix E of the Application materials, the Montana State Historical Society letter states they have no record of cultural resources located on the property.

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

**Applicant:** The proposed project will have minimal impacts on the County's existing fire prevention measures as it is proposed to be completed directly adjacent to an existing County road. As noted above, the site will be served by the Ulm Volunteer Fire Department existing Fire Chief Karsten Hovland. The proposed facility includes parking and gravel surfacing on the western portion of the developed site in order to incorporate a fire prevention buffer on the west side of the building due to prevailing winds in the area as discussed with and recommended by Mr. Hovland.

**Staff:** According to the Community Fire Plan Wildland-Urban Interface Map, the subject property is not within the boundaries of the Wildland Urban Interface and is a low-risk terrain/fuel hazard. The property is located within the Ulm Volunteer Fire Department's District.

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

**Applicant:** While the project will not directly impact the development of educational programs and facilities, recreational opportunities and spaces, and health services, it will

help the County continue to develop those programs and opportunities for the County's residents through the added tax base and the additional budget available through the collection of those taxes.

**Staff: The proposal would have no impact on the development of education programs, recreational opportunities, or spaces and health services.**

### **Section 10.7 Operations**

Operations in connection with the SUP shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

**Staff: The proposal will meet the one (1) mile buffer zone requirement that will mitigate potential conflicts with any residential uses. The proposal also incorporates shielded lighting to reduce light pollution in the vicinity of the facility.**

### **Motions:**

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

- A. Alternative 1: Move the Special Use Permit #009-2020 to allow the use of General Sales on the subject property be **denied** due to (ZBOA member proposing denial must delineate legal reason that the application be denied); or
- B. Alternative 2: Move the Board adopt the Staff Report and Findings of Fact, and **approve** the Special Use Permit #009-2020 to allow the use of General Sales on the subject property subject to the following conditions:
  1. The Applicant obtains any other required county, state, or federal permits and complies with regulations associated with any other permits.
  2. The Applicant obtains an address from the Cascade County GIS Department.
  3. The Applicant obtains the necessary approach permit(s) from the Cascade County Road & Bridge Division.
  4. The Applicant performs a Traffic Impact Study if required by the Cascade County Road & Bridge Division.
  5. The Applicant obtains any necessary permits required by the City/County Health Department and/or the Montana Department of Environmental Quality.
- A. Alternative 1: Move the Special Use Permit #010-2020 to allow a Commercial Butcher on the subject property be **denied** due to (ZBOA member proposing denial must delineate legal reason that the application be denied); or

B. Alternative 2: Move the Board adopt the Staff Report and Findings of Fact, and **approve** the Special Use Permit #010-2020 to allow a Commercial Butcher on the subject property subject to the following conditions:

1. The Applicant obtains any other required county, state, or federal permits and complies with regulations associated with any other permits.
2. The Applicant obtains an address from the Cascade County GIS Department.
3. The Applicant obtains the necessary approach permit(s) from the Cascade County Road & Bridge Division.
4. The Applicant performs a Traffic Impact Study if required by the Cascade County Road & Bridge Division.
5. The Applicant obtains any necessary permits required by the City/County Health Department and/or the Montana Department of Environmental Quality.

Attachments:

- Special Use Permit Application Packet, Vicinity map showing the 1-mile buffer, Applicable Cascade County Zoning Regulations

cc: Geraldine Acres, LLC & Bixler Properties, LLC

**STAFF REPORT  
ZONING BOARD OF ADJUSTMENT**

**Thursday, October 29, 2020**

**9:00 a.m.**

**Via Zoom (an online platform, see public notice for link)**

**SUP #011-2020**

**VR #2020-003**

**Subject Property Information**

Name of Applicant(s) & Owner(s): Todd J. & Alena O. Standley  
1125 River Road  
Cascade, MT 59421

Legal Description: SE ¼ NE ¼ S29, T19N, R2E

Geo- Code(s): 02-2891-29-1-04-01-0000

Parcel Number(s): 0003801575

Existing Zoning: Agricultural (“A”)

Requested Action: Approval of a Special Use Permit  
 (“SUP”) to allow the use of a  
 Commercial Butcher and Variance.

Surrounding Land Uses/Zoning: North: Agricultural /A  
South: Agricultural /A  
East: Agricultural /A  
West: Agricultural /A

Current Land Use: Residential Use

Applicable Regulations: Cascade County Zoning Regulations  
 (“CCZR”) §§ 7.2.4(25), 9.5 & 10.

**General Information:**

The Cascade County Zoning Board of Adjustment (“ZBOA”) is in receipt of a Special Use Permit and Variance Application from Todd and Alena Standley for their property located at 1125 River Road, Cascade, MT 59421. The Special Use Permit Application is for the use of a Commercial Butcher and the Variance Application is to waive part of the requirement of Cascade County Zoning Regulations § 7.2.4 (25), which reads “animals may not be stabled or processed within one (1) mile from any adjacent residences”. The

Applicant is requesting a SUP and a Variance be granted as required by CCZR §§ 7.2.4(25), 9.5, & 10.

### **General Provisions**

A special use is a use for which conformance to additional standards will be required and shall be deemed to be a permitted use in its respective district, subject to the standards and requirements set forth herein, in addition to other applicable requirements of these regulations. All such uses are hereby said to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

A SUP may be issued only upon meeting all requirements in these regulations for a specific use which is explicitly mentioned as one of the “Uses Permitted Upon Issuance of a Special Use Permit as Provided in Section 10” within the respective zoning districts contained in Sections 7 or Section 8.1.5 hereof. After the public hearing is closed, the ZBOA can approve, deny, or approve with conditions the SUP. A separate SUP shall be required per each tract of land. The SUP fee shall be \$450.00.

### **Expiration**

The ZBOA approval of the SUP shall be valid for only one particular use and shall expire one year after the date of approval, if construction or the use has not started. The Zoning Administrator may grant a one-time only six (6) month extension of the Zoning Board of Adjustment approval.

The SUP shall expire if the use ceases for six (6) months for any reason. Any further extension requests must be granted by the ZBOA prior to the date of expiration.

### **Findings of Fact:**

5. Todd J. & Alena O. Standley are the legal owners of the property and currently reside on the property.
6. The property is in the A Zoned District. The use of a “Commercial Butcher” is allowed in the A District with a SUP<sup>10</sup>.
7. There are five (5) residential dwellings located within one (1) mile of the proposed Commercial Butcher facility. They range from approximately 370 feet to .99 miles away from the proposed facility.

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<sup>10</sup> CCZR § 7.2.4 (25): Use permitted upon issuance of a Special Use Permit: “Commercial propagation, boarding, grazing, or butchering of animals and fowl provided that the animals may not be stabled or processed within one (1) mile from any adjacent residences. The adjacent residences must be residences that are present prior to the date of receiving the application for this use. The operation can be used as a wholesale feed lot, meat packing plant, slaughterhouse, rendering plant, and the like”.

8. The Applicant has applied for a Variance to waive part of the requirement of Cascade County Zoning Regulations § 7.2.4 (25), which reads “animals may not be stabled or processed within one (1) mile from any adjacent residences”.
9. The property is not known to be in violation of any CCZR or any other County Ordinance(s), and the county taxes are current.
10. Legal Notice of the Applications and the public hearing was published in the Great Falls Tribune on October 18, 2020 and October 25, 2020.
11. A SUP may be revoked by the ZBOA at any time a building(s) or use(s) is deemed to be in violation of the standards and zoning requirements under which the SUP was issued. A violation of a SUP will be handled as any other violation under CCZR § 13.
12. Appeals of the ZBOA decision shall follow the process outlined in CCZR § 12.
13. Access to the “Commercial Butcher” facility will be through the Applicant’s current driveway approach off River Road, a county-maintained road.
14. The proposed “Commercial Butcher” facility will receive water from a private well and will be serviced by an on-site septic system.
15. The property is not located within a Military Overlay District.
16. The property is not located in a regulated flood zone.

**I. Findings with Respect to the SUP Analysis Criteria**

The Planning Department provides that the following analysis, findings, and conclusion under the controlling sections of the Cascade County Zoning Regulations.

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

Considerations:

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

***Applicant: This project is not a threat to public health or safety. Additional traffic will be very minimum and limited to 1-2 additional vehicles in the area on one day per week.***

**Staff:** The access for the proposed facility will be off River Road. This road is a gravel county-maintained road. According to the Applicant's Use Statement Form, livestock will be delivered one day prior to slaughter between the hours of 12 PM to 6 PM by a one (1) ton pickup truck. The expected number of customers or visitors will be an average of one (1) per day and a maximum of five (5) per day between the hours of 6 AM to 6 PM. The current number of employees is one (1). The Applicant plans on having a total of two (2) employees in the future. The Applicant will need to obtain the necessary approach permit(s) from Cascade County Road & Bridge Division.

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

***Applicant: This project will utilize owner's utilities already on the property including well and garbage. Upgrades to electrical services will be made through the power company and the contractor will install necessary septic, including two separate systems for domestic and animal waste.***

**Staff:** The property will be served by the Ulm Volunteer Fire Department, which were provided an Interested Agency Notice on October 14, 2020. No comments have been received as of writing this report. The Applicant will need to obtain any necessary permits from the City/County Health Department and the Montana Department of Environmental Quality ("MDEQ").

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

***Applicant: This project is being built in a manner that will not affect publics (neighboring ranches) health. The proposed building will not impact the grades impacting run-off or changing dirt enough to effect soil erosion.***

**Staff:** The Proposed structure is 3,025 square feet. One (1) acre of land is not anticipated to be disturbed. The Planning Department does not anticipate a significant amount of erosion and sedimentation. This proposal lies outside the urbanized area that is considered part of the County Municipal Separate Storm Sewer System (MS4) jurisdiction.

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

***Applicant: This project will utilize an existing well on our private property and not affect neighboring water supplies. This project is [in] coordination with DEQ and their standards for protecting water.***

**Staff: The Applicant stated in the Use Statement Form that “500-600 gallons of water per day will be utilized from our personal well. Primarily for cleaning.” The Planning Department is recommending a condition of approval that will require the Applicant to obtain appropriate permits and approvals through the City-County Health Department and MDEQ. No comments were provided by the City-County Health Department as of the writing of this report.**

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

Considerations:

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

***Applicant: Slaughter and butcher facilities are overwhelmed and demand is high for more of this type of business. Our property is very rural and neighboring property owners are at one mile or more from our property and have indicated support for the business. Many neighbors will utilize our business for their own butcher needs.***

**Staff: The surrounding area of the proposed facility is zoned Agricultural. There are five (5) dwellings that are within the one (1) mile buffer of the proposed commercial butcher facility. One is located on the subject property approximately 370 feet from the proposed facility where the Applicant owns and reside. A variance to waive this one (1) mile buffer has been applied for. All property owners with dwellings within the one (1) mile buffer received a notice of public hearing and letter regarding the October 29, 2020 ZBOA meeting via certified mail.**

- d. Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or county as to justify it regardless of its impact on the value of adjoining property.

***Applicant: Proposed facility is in extreme high demand and will not affect value of adjoining property.***

**Staff:** The adjoining properties to this proposed facility location consist of two (2) parcels which are zoned Agricultural. Other than the residence located on the subject property and occupied by the Applicant, the proposed facility conforms with the adjoining properties land uses. If the Applicant meets the requirements, receives variance approval and receives approval of all required permits, any issues with the public health, safety, and general welfare of the community should be mitigated.

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

Considerations:

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

***Applicant: This type of business is recognized as a [necessity] in rural Montana and valuable to ranchers with livestock. Our building will be clean, attractively built and maintained to [coincide] with our personal dwelling in the area.***

**Staff:** The proposed structure and uses are agriculturally based. If the proposed variance is approved, then no conflicts are anticipated. No public comments have been received.

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

Considerations:

- b. Consistency with the growth policy objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its location standards.

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

- K. 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: Neighboring and state-wide, our peers have indicated a need for more butcher facilities. This project boosts access to processing as well as an additional retail business for the industry. We will contribute to a sustainable ag economy by completing a portion of the cycle of livestock and equipment sales, feed sales, and retail purchase of meat.***

***Staff: The proposed facility will have a positive impact on the local agricultural industry. This project will support local agriculture by keeping the industry and the products local to support our local economy. Meat distributions will be improved by utilizing direct-to-consumer distribution methods.***

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

***Applicant: The need for this business is high and this business will support tax bases.***

***Staff: The proposed facility will generate tax revenue and will give farmers and ranchers a local resource to use for their operations.***

- M. *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: As an agriculture business, this will complement the current ag industry well and we will not only support area ranchers by providing a necessary service, but be able to retail a high-end meat supply to customers. We will also be supporting local ag and supply stores and drawing customers, state-wide to our area where they will shop and dine in our town.***

***Staff: The proposed facility complements and supports existing businesses, agricultural operations, and local consumers.***

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

**Applicant: This project supports Cascade County's agriculture heritage and rural economy. It will contribute to the economic base in several ways as listed above. The need for quality butchering is not [restricted] culturally.**

**Staff: The proposed facility would not directly impact the development of cultural resources or tourism.**

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

**Applicant: We are excited to add a business of this type and our facility will be built to be able to expand into a state licensed facility. We can process animals for other meat retailers and support local entrepreneurship as more people turn to locally-sourced business opportunities. We can work with individuals, businesses, restaurants, schools, etc.**

**Staff: The proposed facility could positively impact and stimulate well-planned entrepreneurship among the county's citizenry by being a local resource for other businesses in Cascade County.**

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

**Applicant: Noted above, this business is a great example of a strong, local, essential business. We hope to utilize the support of the chamber, and are already working with the Cascade County rural development office and other organizations.**

**Staff: The proposed facility would positively impact Cascade County's local business environment.**

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

**Applicant: Stated in section C. We not only attract business for our own but would draw customers who need processing to the area from ranches across the state. This will boost**

**local economy. Access to a local butcher also supports more meat retail opportunities.**

**Staff: The proposed facility would encourage local trade and local shopping within the County.**

- R. 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: This project supports other butcher facilities to process animals that are killed at state and federal facilities. This will also allow retail meat businesses from across the state more processing options.**

**Staff: The proposed facility would have a positive effect on economic development efforts.**

- S. Encourage the growth of the agricultural economy.

**Applicant: This business is a direct positive impact on the [agricultural] industry by increasing livestock processing capacity.**

**Staff: The proposed facility is part of the Cascade County agricultural industry and would directly encourage its growth.**

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

**Applicant: Do not have current plans or financial resources for alternative energy.**

**Staff: Alternative energy sources have not been proposed for this facility.**

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

**Objectives:**

- G. 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: This project supports a sustainable agriculture industry with livestock used for grazing needs- both forest**

**and plains, the livestock industry depends on the crops grown for feed and the industry works in harmony.**

**Staff: The proposed facility will encourage and positively effect the continuance of agriculture and forestry in Cascade County.**

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

**Applicant: This building will complement the scenery well and opportunities are present for composting waste and contributing to soil health. The livestock industry as a whole is a great tool for conservation.**

**Staff: With the scale of this facility, a negative impact on Cascade County's scenic beauty is not anticipated.**

- I. 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: This building will be on private property, located near our personal dwelling.**

**Staff: The proposed facility is located on a 20-acre parcel of land in the Agricultural District.**

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

**Applicant: No impact on air or water. Building will be attractive and support the community appearance.**

**Staff: To ensure there will be no impact on air or water, the Applicant will be required to obtain all necessary permits from the City/County Health Department as well as MDEQ. The City/County Health Department has not submitted comments or concerns regarding this project.**

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

**Applicant: We will be processing livestock and will not be developing natural resources.**

**Staff: The proposed facility will not negatively impact natural resource development.**

- L. Continue to work with federal and state agencies to redevelop properties within Cascade County which are currently undergoing Superfund and Brownfields process.

**Applicant: We do not have any property that requires redevelopment. All property is and has been farm ground or pasture.**

**Staff: The location of the proposed facility is neither a Superfund nor Brownfield site.**

**GOAL 3: Maintain Agricultural economy**

- E. Protect the most productive soil types.

**Applicant: The location for this building will be on soil on our property with limited grazing use currently.**

**Staff: According to the NRCS Web Soil Survey Map generated on the USDA government website<sup>11</sup>, there are no prime farmland soils located on the subject property.**

- F. Continue to protect soils against erosion.

**Applicant: Property will be constructed in a sustainable manner and will not impact soil erosion.**

**Staff: One (1) acre of land is not anticipated to be disturbed during the construction process. The Applicant will be required to meet all construction standards, including obtaining any and all necessary permits.**

- G. Protect the floodplain from non-agricultural development.

**Applicant: This will not affect the floodplain.**

**Staff: The subject property is located in a non-regulated floodplain area, Zone X and D.**

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<sup>11</sup> <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>

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

**Applicant: This is a value-added business for the agricultural industry that will provide necessary processing for livestock producers in the region and a value-added retail business by selling meat and meat products.**

**Staff: The proposed facility will positively impact the agricultural industry within Cascade County by offering local agricultural options.**

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

**Objectives:**

A. Encourage the federal congressional delegation to actively support maintaining the current mission status at a minimum.

**Applicant: No impact anticipated as it does not apply to my business.**

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

**Applicant: No impact anticipated as it does not apply to my business.**

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

**Applicant: No impact anticipated as it does not apply to my business.**

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

**Applicant: No impact anticipated as it does not apply to my business.**

**Staff: The proposed "Commercial Butcher" facility will have no impacts on the mission at Malmstrom AFB. The property is located outside of all Military Overlay Districts.**

**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: This business provides a service and a resource for locally-raised meat, positively affecting the population.**

**Staff: The proposed facility will support and strengthen local producers that will in effect help to preserve and enhance the rural, friendly and independent lifestyles enjoyed by the County's citizens.**

- 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: Agriculture is a vital part of Cascade County's heritage and this business ensures ranchers can continue to live that historic lifestyle.**

**Staff: The proposed facility would not have a negative impact on Cascade County's cultural/historical sites and archaeological areas.**

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

**Applicant: Fire prevention is always a priority issue on the ranch we live on and will continue to be with this new project. This business is not an increased fire risk, however.**

**Staff: The property is located within the Ulm Volunteer Fire Department's District. According to the Community Fire Plan Wildland-Urban Interface Map, the subject property is within the boundaries of the Wildland Urban Interface and is a low-risk terrain/fuel hazard**

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

***Applicant: This business opens an opportunity for teaching the art of butchery and encouraging others to consider this industry. It does not have a direct impact on recreational spaces or health services.***

***Staff: The proposed facility would not have a negative impact on the development of education programs, recreational opportunities or spaces, and health services.***

*Considerations Continued:*

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

***Applicant: Proposed facility is not in a municipal.***

***Staff: The application will likely not have a negative impact on the municipal or joint land use plans.***

## **Section 10.7 Operations**

Operations in connection with the SUP shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

**Staff: The Applicant has proposed to compost a significant distance from any residence in the area in order to reduce any odor. Outdoor lighting will be used around the outside of the building for safety and security. Currently, there is some vegetation along River Road that will help act as a natural buffer to the West of the proposed facility.**

### **II. Findings with Respect to the Variance**

A variance is a relaxation of the terms of these regulations where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the Applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship. As used in the CCZR, a variance is authorized only for height, area, and size of structure, size of yards and open spaces, signage, landscaping, or as otherwise specifically provided for in these regulations. Establishment or expansion of a use otherwise prohibited shall not be allowed by

variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or adjoining zoning districts.

The Applicant has requested a Variance to waive part of the requirement of Cascade County Zoning Regulations § 7.2.4(25), which reads “animals may not be stabled or processed within one (1) mile from any adjacent residences”.

#### Section 9.5.2 Basis of Decision for a Dimensional Variance

A dimensional variance shall only be granted when the evidence shows, and a finding can be made that each of the following conditions exists:

- (1) The variance is not contrary to the public interest.

***Applicant: This property will be in our rural area, on our private property. Nearest neighbors are family and give their permission. This type of business compliments the agriculture in the area.***

***Staff: The one (1) mile buffer zone from residences helps to mitigate potential conflicts between different types of land uses, such as residential and more intense commercial uses. The one (1) mile buffer zone also serves to help mitigate potential public nuisance(s) related to light, odor, noise, and traffic concerns. The subject property is 20 acres. The surrounding properties are zoned Agricultural. The closest house to the proposed facility is approximately 370 feet away and that house is owned and occupied by the Applicant. There are four (4) other dwellings within one (1) mile of the proposed facility. One dwelling is approximately .4 miles away and is owned by Jan Johnson. Another dwelling is approximately .6 miles away and is owned by Patrick B & Loretta M Standley Living Trust. The next dwelling is approximately .91 miles away and is owned by Michael L & Jacqueline T Standley. The last dwelling is approximately .99 miles away and is owned by Steve & Rhonda Tylinski. The surrounding areas topography offers a natural buffer to some of these dwellings. This is shown in the attached Vicinity Topography map. This will also be a smaller “Commercial Butcher” facility where the Applicant plans on starting as a self-employed processing facility, butchering up to six beef per week. The Applicant states that the facility will have the capacity to process 4-6 beef, 3-4 pigs and 3-4 lambs per week. Livestock will be delivered one day prior to slaughter once a week between the hours of 12 PM and 6 PM. This facility will not be used as a commercial feedlot. The proposed scope of the facility, the natural topography, and the approximate .6 mile distance from other, non-applicant residential dwellings, act to serve the purpose of minimizing and mitigating potential conflicts with the nearby residences; and, therefore, the variance would not be contrary to the public interest.***

(2) A literal enforcement would result in unnecessary hardship, owing to conditions unique to the property.

***Applicant: This business will contribute to the agriculture economy and support Montana livestock producers. Our business will also support our family and enable us to continue ranching and raising livestock.***

***Staff: Throughout this property there are notable changes in topography. The proposed placement of this facility is the only feasible spot on the subject property. Most of the open space located on this parcel is on a hill side. The Applicants own and reside on the subject property which would allow them to constantly maintain the proposed facility.***

(3) The spirit of this Section would be observed, and substantial justice done by granting the variance.

***Staff: The Granting of this variance would not put the Applicant or the proposed facility in nonconformity with the Cascade County Zoning Regulations other than being within one (1) mile from any adjacent residences. In the event, the Applicant is unable to obtain a variance from this Section, they would be unable to construct and use this property for the proposed "Commercial Butcher" facility.***

### **Motions:**

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

- C. Alternative 1: Move that Special Use Permit #011-2020 for a use of a "Commercial Butcher" and Variance #2020-03 to waive part of the requirement of Cascade County Zoning Regulations § 7.2.4 (25), which reads "animals may not be stabled or processed within one (1) mile from any adjacent residences" be **denied** due to (ZBOA member proposing denial must delineate legal reason that the application be denied); or
- D. Alternative 2: Move the Board to adopt the Staff Report and **approve** Special Use Permit #011-2020 for a use of a "Commercial Butcher" and Variance #2020-03 to waive part of the requirement of Cascade County Zoning Regulations § 7.2.4 (25), which reads "animals may not be stabled or processed within one (1) mile from any adjacent residences" at 1125 River Rd, Cascade, MT, referenced as Parcel # 0003801577 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. The Applicant obtains approval from the City-County Health Department for a Subsurface Wastewater Treatment System.
3. The Applicant obtains any necessary permits required by the City/County Health Department and/or the Montana Department of Environmental Quality.
4. The Applicant obtains addressing from the Cascade County GIS Department for E911 purposes.
5. The Applicant performs a Traffic Impact Study if required by the Cascade County Road & Bridge Division.

Attachments:

- Special Use Permit Application & Site Plan
- Vicinity / Zoning/ one (1) Mile Buffer Map/ Topography Map
- Applicable CCZR sections.

cc: Todd J. & Alena O. Standley

**STAFF REPORT  
ZONING BOARD OF ADJUSTMENT**

**Thursday, October 29, 2020  
9:00 a.m.**

**VR #2020-001**

**General Information**

Name of Applicant/Owner:	Garrett & Katie Baney 81 Gibson Flats Rd Great Falls, MT 59405-8102
Requested Action:	Variance from the Cascade County Zoning Regulations § 8.6, Letter of Map Change requirement for residences in a floodplain
Geo Code:	02-3016-20-1-01-02-0000
Parcel Number:	0002011000
Legal Description:	Eaton Suburban Addition, Block 4, Lot 9A, Section 20, Township 20 N, Range 4 E
Existing Zoning:	Suburban Residential 1 (SR1)
Surrounding Zoning:	North: SR1 South: A East: SR1 West: SR1
Current Land Use:	Residential
Applicable Regulations:	Section 8.6 (Letter of Map Change Requirement for Residential Construction in the Floodplain) & Section 9.5 (Variances) Cascade County Zoning Regulations

**Special Information**

1. Section 8.6 "Floodplain Regulations" of the Cascade County Zoning Regulations provides the following:

"The Board of County Commissioners adopted the 'Cascade County Floodplain Regulations' which are incorporated as fully as if set out at length herein, the provisions thereof controlling within Cascade County and outside the City Limits of the City of Great Falls. The Cascade County Floodplain Regulations for the above-described area, copies of which are available at the Office of the Cascade County Planning Division and Zoning Administrator,

shall be administered and enforced by the Zoning Administrator.

A location / conformance permit shall not be issued for any non-residential use or structure within a designated floodplain area until all applicable floodplain permits have been issued. A location / conformance permit shall not be issued for any residential structure within a designated floodplain area until a Letter of Map Change (LOMC) has been obtained from the Federal Emergency Management Agency. (See Letter of Map Change Definition).”

2. The Cascade County Floodplain Regulations require that “[s]tructures or fill must not be prohibited by any other statute, regulations, ordinances, or resolution; and must be compatible with subdivision, zoning and any other land use regulations, if any; (ARM 36.15.701(3)(a) & (b)).
3. The following definitions are taken from the Cascade County Zoning Regulations:

**LETTER OF MAP CHANGE**

An official revision to a FEMA flood map issued only by FEMA. There are two letters of official flood map revision; a Letter of Map Amendment (LOMA) and a Letter of Map Revision (LOMR).

**VARIANCE**

A variance is a relaxation of the terms of these regulations where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the Applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship. As used in these regulations, a variance is authorized only for height, area, and size of structure, size of yards and open spaces, signage, landscaping, or as otherwise specifically provided for in these regulations. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or adjoining zoning districts.

4. The following definitions are taken from the Cascade County Floodplain Regulations:

**Base flood elevation** means the elevation above sea level of the base flood in relation to the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988 or unless otherwise specified.

**Substantial Damage** means damage sustained by a structure where the cost of restoring the structure to its before-damage condition would exceed fifty percent (50%) of the market value of the structure before the damage occurred.”
5. The FEMA National Flood Insurance Program (“NFIP”) defines a Letter of Map Change as “...a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F).

6. Section 9.5.4 of the Cascade County Zoning Regulations requires the concurring vote of three members of the Zoning Board of Adjustment in order to approve a variance request.
7. Legal Notice of this public hearing was completed with a mailing to surrounding property owners sent on October 15, 2020 and legal ads in the *Great Falls Tribune* on Sunday, October 18, 2020 and Sunday, October 25, 2020.
8. This property is located within the Special Flood Hazard Area of Gibson Flats, Zone AE Flood Fringe, also known as the Area of 1% Annual Chance of Flood Hazard, or the 100-year Floodplain, Panel 0626E, with an established Base Flood Elevation of 3355' NAVD88.
9. If this Variance is approved, the Applicant will be required to obtain a Floodplain Permit for the reconstruction of the residence at this property and be in compliance with all applicable regulations.
10. The Montana Department of Natural Resources and Conservation, Floodplain Management Section (Traci Sears, NFIP/CAP Coordinator, Sterling Sundheim, Lewistown Regional Office) was sent a copy of the Application on October 15, 2020. Other Interested Agencies were provided notice of this application on October 15, 2020. The Montana Department of Transportation declined to offer comment. No other interdepartmental or agency comments have been received at the time of writing this report.
11. The residence at 81 Gibson Flats was damaged to the point of inhabitability by a flooding event in the spring of 2019. The Applicants' desire to remove the existing structure and replace it with a new structure in compliance with all current federal, state, and local regulations.
12. The Applicants are required to obtain a Letter of Map Revision based on Fill (LOMR-F) to be in compliance with the Cascade County Zoning Regulations. This requires that fill is brought in to raise the building pad a half foot above the Base Flood Elevation and extend the pad at least 15 feet beyond the structure in all directions to be in compliance with the Cascade County Floodplain Regulations. Following the successful establishment of the fill with an approved Floodplain Permit, the Applicant would then be required to submit an MT-1 Application to FEMA and receive a determination letter that removes the elevated portion of the property from the Special Flood Hazard Area.

### **Analysis & Findings of Fact**

Section 9.5.2 of the Cascade County Zoning Regulations states, "A dimensional variance shall only be granted when the evidence shows and a finding can be made that each of the following conditions exists:"

- (1) **The variance is not contrary to the public interest.**

**Applicant: The request for this variance will allow the home owner to replace the [existing] damaged home by elevating the ground foundation to prevent future flooding damage to the home next time the rain water from the retention pond located north of the property is released.**

Staff: This proposal will be required to meet all other applicable regulations, notably the provisions of the Cascade County Floodplain Regulations (CCFR) § 1.4(2), which are intended to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business and public service interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges;
6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood disruptions; and to
7. Ensure compliance with the minimum standards for the continued participation in the National Flood Insurance Programs for the benefit of the residents.

The CCFR §§ 9 and 9.3 provide standards for Residential development in floodzones that allow development of structures that “Elevate on suitable fill or be raised on a permanent foundation” and that “Have a foundation consisting of reinforced concrete, reinforced-mortared block, reinforced piers, or other foundation elements of equal strength.” (CCFR §§ 9.3(4) (3)&(4)) Removing the existing, damaged structure and replacing it with a structure built with reduced flood risk is expected to have a positive impact for the landowner. The Letter of Map Change requirement and the requirement to elevate residential structures on fill provide a significant reduction in flood risk by effectively removing a structure and surrounding ground from the Regulatory Floodplain. The Applicant’s alternative proposal does not suggest that the new residence would be constructed in a way that would put the lowest floor less than two feet above the Base Flood Elevation. The structure will be required to be in compliance with the other provisions of the CCFR for residential development, manufactured homes, and flood proofing. Designs such as those to equalize hydrostatic forces by allowing the automatic entry and exit of floodwaters for the portion of the structure below the Base Flood Elevation, securing the chassis by anchoring to the foundation system so that it will resist flotation, collapse or lateral movement, and elevating so that all electrical, heating, duct work, ventilation, plumbing, and air conditioning equipment and other services are two (2) feet above the Base Flood Elevation will aid in mitigating future flood risk. While this proposal will reduce flood risk compared to the risk of the original residence, it will not do so to the same extent as physically removing a structure and a portion of property from the floodplain through the use of fill and the Letter of Map Change process. With regards to impacts on neighboring properties, the amount of fill required to meet the Letter of Map Change requirements would be greater than that proposed by the Applicant and would create a greater displacement of Floodwaters during a 1%-chance event. The CCFR § 9.2(11)(7) addresses this and provides that, “Mitigation may be required for lost natural flood storage due to added fill.” No public services, facilities, or utilities are expected to be impacted by this proposal. This condition is mitigated, but not fully satisfied.

**(2) A literal enforcement would result in an unnecessary hardship, owing to conditions unique to the property.**

**Applicant: The rain water retention pond was constructed after the applicant property was built, the family had to rent for the past 18 month since the house was damaged by the water, the family had to change schools for the 3 kids and want to come back to the same neighborhood, the applicant was not at fault for the flooding of the area.**

*Staff: The Applicant asserts in the response to the previous question that the reason for the 2019 flood was the release of rain water from the retention pond operated by the City of Great Falls north of the property, and does not identify conditions unique to the property that would result in unnecessary hardship due to literal enforcement of the regulations. The lot for the retention pond was created by Certificate of Survey 3790 in 2000 and appears to have been constructed after 1995 based on historic aerial imagery available from the US Geological Survey. County Flood Insurance Rate Maps show the Gibson Flats area as a Special Flood Hazard Area on Panel 0426B, Revised December 8, 1981. Historic imagery from the 1969 flood shows the Gibson Flats area, including the Applicant's residence, being impacted by a flooding event. According to Montana Department of Revenue records, the Applicant's residence was constructed in 1961. The Applicant has not established where there are conditions unique to this property that do not exist in the same general area that precludes them from bringing in the necessary material to obtain a Letter of Map Revision based on Fill. This condition has not been satisfied.*

**(3) The spirit of this Section would be observed and substantial justice done by granting the variance.**

**Applicant: Absolutely**

*Staff: While the proposal appears to mitigate concerns of public interest to support the variance, the Applicant has not identified where the literal enforcement of the Zoning Regulations and the Letter of Map Change requirement for residential construction would result in an unnecessary hardship owing to conditions unique to the property. Any properties similarly situated in Zone AE would be required to obtain a LOMC. This condition has not been satisfied.*

Section 9.5.3 of the Cascade County Zoning Regulations states, "In addition to the general findings required above, the following findings shall apply to variances from floodplain requirements:"

**(1) The proposed use will be adequately flood-proofed.**

**Applicant: To make the proposed location flood-proofed, the existing dwelling, will be removed, the same location which current elevation is 3348 feet, will be properly filled and compacted with required proper filling material, 5 feet, to an elevation of 3353.0 to create the top of the pad for the location. In addition, the new structure (a prefabricated home) will be elevated another 4ft using cinder block columns, creating the new crawling space, and placing the top of the bottom floor 3357 feet.**

**The new enclosure of the crawling space will be fitted with a total of 16 permanent Engineered flood opening gates installed 1.0 foot above adjacent grade. (Refer to section A-A of the attached Elevated fill plan).**

*Staff: The Applicant has not proposed a variance from any of the provisions of the Cascade County Floodplain Regulations and will be required to meet all applicable regulations. A Cascade County Floodplain Permit Application has not been submitted to the Planning Department for consideration at this time. However, the Applicant's proposed building diagram shows a structure elevated on fill with a properly vented foundation. This criterion will be satisfied so long as*

*floodproofing is performed in accordance with the Cascade County Floodplain Regulation floodproofing requirements.*

**(2) A reasonable alternate location outside the floodplain is not available.**

**Applicant: The proposed location is the highest point in the 2-acre property, making this location the most adequate to retain for the location of the new home. (Refer to right top drawing of the attached Elevated fill plan).**

*Staff: The property is located entirely within the Special Flood Hazard Area, and the Applicant has chosen a site that has the highest natural elevation based on the submitted topographical data. This condition has been satisfied.*

**(3) The granting of the variance will not cause increased flood hazards, present additional threats to public safety, create an extraordinary public expense, create a nuisance, or otherwise conflict with federal, State, or other local laws.**

**Applicant: Based on the very low density of the population in the area the open land around the location and the fact that the same location of the existing dwelling will be used, there is no reason to believe that granting this variance will cause any of the situations described above, to the contrary, we believe, that restoring the property as proposed, will increase property values in the area. We cannot find any situation [that] will conflict with any federal, States, or other local laws.**

*Staff: Compliance with the Cascade County Floodplain Regulations supports that the project will not cause increased flood hazards, present additional threats to public safety, create an extraordinary public expense, or create a nuisance. The Administrative Rules of Montana (ARM) § 36.15.702(1)(a) provides:*

*“Residential structures shall be constructed on suitable fill with a permanent foundation such that the lowest floor (including basement) level is 2 or more feet above the base flood elevation. The suitable fill shall be at a level no lower than the base flood elevation extending 15 feet at that elevation beyond the structure in all directions. Where existing streets, utilities, lot dimensions, or additions onto existing structures, make strict compliance with this provision impossible, the permit issuing authority may authorize a lesser amount of fill or alternative flood proofing measures. Alternative flood proofing measure must, at a minimum, meet the conditions of ARM 36.15.702 and ARM 36.15.901 through 36.15.903”*

*The Applicant has proposed a lesser amount of fill, but has not demonstrated where strict compliance with this provision is impossible to allow a lesser amount of fill than would be required by the State of Montana. Compliance with ARM 36.15.702 would satisfy the requirements of a Letter of Map Revision based on Fill, which requires that the lowest adjacent grade of the structure be at or above the Base Flood Elevation. However, since the Applicant has not proposed to meet this standard, this Variance Request conflicts with the State of Montana rules. This condition has not been satisfied.*

**Motions:**

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

"I move that the Board adopt the Staff Report and Findings of Fact and **deny** the Applicant's requested Variance from the residential construction requirements of Cascade County Zoning Regulations § 8.6 on the property at 81 Gibson Flats Road, Eaton Suburban Addition Block 4 Lot 9A, Section 20, Township 20 N, Range 4 E, Cascade County, MT."

or

"I move that the Board reject the Staff Report and Findings of Fact and adopt the Board's Findings of Fact and **approve** the Applicant's requested Variance from the residential construction requirements of Cascade County Zoning Regulations § 8.6 on the property at 81 Gibson Flats Road, Eaton Suburban Addition Block 4 Lot 9A, Section 20, Township 20 N, Range 4 E, Cascade County, MT subject to the following conditions:

- a. The Applicant will obtain all other necessary federal, state, and local permits and abide by all applicable regulations; and
- b. The Applicant will obtain a Floodplain Permit from the Cascade County Planning Department and adhere to all applicable requirements of the Cascade County Floodplain Regulations; and
- c. This Variance request will become null and void if work is done beyond the scope authorized by the Cascade County Floodplain Regulations."

Attachments:

- 1) Variance Application
- 2) FIRMette of 81 Gibson Flats
- 3) Historical Image of 1969 Flood
- 4) Flood Insurance Rate Map Panels 300008-0426B & 30013C0626E