

**STAFF REPORT
ZONING BOARD OF ADJUSTMENT
Thursday, April 21, 2022
9:00 a.m.**

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

SUP #004-2022

SUBJECT PROPERTY INFORMATION	
Name of Applicants & Owners:	Greg Mackenstadt 80 Eaton Avenue Great Falls, MT 59405
Legal Description:	Eaton Suburban Addition Amended, Lot 06E, Block 001, Section 20, Township 20N, Range 04E, P.M.M., Cascade County, MT
Geo- Code:	02-3016-20-4-01-05-0000
Parcel Number:	2006000
Existing Zoning:	Suburban Residential 1 District (“SR-1”)
Requested Action:	Approval of a Special Use Permit to allow an accessory use without a principal use
Surrounding Land Uses/Zoning:	North: Residential/ SR-1 South: Residential/MU-20 East: Residential/SR-1 West: Commercial/MU-20
Current Land Use:	Residential
Applicable Regulations:	Sections 7.3.4(1), 10,16.1.2 Cascade County Zoning Regulations (“CCZR”)

General Information:

The Cascade County Zoning Board of Adjustment (“ZBOA”) is in receipt of a Special Use Permit (“SUP”) Application from Greg Mackenstadt to allow an accessory use without having a principal use, namely a private shop (non-commercial), on the Subject Property. A SUP is required by Sections 7.3.4(1)¹ of the CCZR. The standards set forth in Section 10 of the CCZR are applicable to Special Use Permits. Notably, this property is not known to be in violation of the CCZR or any other County ordinances, and county taxes are current.

Legal Notice of the Application and this public hearing was published in the Great Falls Tribune on April 10, 2022, and April 17, 2022 and mailed to adjacent property owners and interested agencies, via certified mail, on April 7, 2022.

¹ CCZR § 7.3.4 “Uses Permitted Upon Issuance of a Special Use Permit: (1) Use permitted upon issuance of a special permit as set forth under RR-5 District regulations, SR-1 and SR-2 Districts. Pursuant to CCZR § 7.2.4(5), an SUP is required for a structure meeting the definition of accessory building/structure but without a principal use – residential use only; no commercial use allowed, (not accessory, stand-alone structure), upon the issuance of a SUP.

Findings with Respect to the Analysis Criteria

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

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

Considerations:

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

Applicant: This is going to be a private storage/shop and is at the end of [the] road, and will have no negative effects to intersections or streets.

Staff: Access to the subject property is off of a driveway approximately 570 feet from Eaton Avenue, a county maintained road. This is also not a residential structure, therefore, no additional trips will be generated from the accessory use.

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

Applicant: All existing

Staff: There will be minimal effect on the utilities at, or around the proposed parcels. Condition #2 is proposed to require all necessary permits for wastewater from the City-County Health Department.

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

Applicant: There will be no erosion caused by constructing this building.

Staff: A significant amount of erosion and sedimentation is not anticipated, upon construction. The structure will not be elevated on fill; minimizing the erosion from stormwater run-off from the structure.

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

Applicant: This building will not have any adverse effects to surface water or ground water

Staff: A condition of approval is recommended that will require the Applicant to obtain appropriate permits and approvals (see Condition #1).

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

Considerations:

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

Applicant: This is a rebuild after 12-1-21 fire in Gibson Flats

Staff: The Planning Department does not anticipate that the accessory use will negatively impact the surrounding properties due to the surrounding residential uses in the vicinity.

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

Applicant: New building will add value to adjoining properties

Staff: The Planning Department does not anticipate that the accessory use will effect surrounding uses. The current surrounding uses are the same or similar to the proposed use.

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: No conflicts

Staff: The subject property is surrounded by residential uses. It will be in harmony with the surrounding uses.

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

Applicant: Rebuild after fire 12-1-21

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

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

Applicant: This is not a business building, and there are no business nearby.

Staff: The proposed accessory use will likely have little to no effect on the retention of any type of businesses within Cascade County, other than storage space for items that may be purchased within the county.

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

Applicant: There is no business development in the area.

Staff: The proposed accessory use will assist to increase the county's tax base.

- 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: There is no business development in the area.

Staff: The proposed accessory use is for private and residential use; therefore, it will not negatively impact business.

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

Applicant: There is no development of cultural or tourism in the area.

Staff: The placement of the accessory use will not negatively impact tourism or cultural resources.

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

Applicant: This is not a business.

Staff: The placement of the accessory use will not negatively impact well-planned entrepreneurship among the county's citizenry. The storage of items

bought within Cascade County, in the accessory use, may promote entrepreneurship within the 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: This is not a business and there is no business near by.

Staff: The proposed accessory use is residential and will not negatively impact business support mechanisms.

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

Applicant: There is no local shopping near by.

Staff: The proposed accessory use will not negatively impact business and could promote local shopping and new businesses growth, within 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: This building will have no effect to local resources

Staff: The proposed accessory use will not negatively impact economic development efforts.

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

Applicant: There are no agricultural properties that this building [will] effect.

Staff: The subject property is considered farmland of statewide importance, however, the area is located within a platted subdivision that is residential in its use.

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

Applicant: There will be no alternative energy methods used on this property.

Staff: This Application does not propose the use of wind energy or other 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: This building will add to property values in the area, and [will] not effect grazing areas, farmlands or forests.

Staff: According to the USDA Web Soil Survey², the Subject Property is considered farmland of statewide importance. The placement of the accessory use on a residential lot will not have a negative impact on grazing, farmlands, or forests.

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

Applicant: This building will have no effect to the forests, streams, wildlife, or fisheries.

Staff: The placement of the accessory use is not anticipated to impact Cascade County's scenic beauty.

- 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: New build

Staff: The subject property is located adjacent to the City of Great Falls. This proposal supports the objective.

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

Applicant: New build

Staff: The subject property will need to obtain approval from the City/County Health Department for water/waste water of the accessory use (see Condition #2). The placement of the accessory use will align with surrounding residential development.

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

² <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>

Applicant: This building will not effect timber, mining, or gas production to the area.

Staff: The placement of the accessory use will not have a negative impact on natural resource development.

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

Applicant: This building will have no effect.

Staff: The subject property is not located within a Superfund or Brownfields site.

Goal 3: Maintain Agricultural economy

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

Applicant: This building will not effect soils.

Staff: According to the USDA Web Soil Survey³, the Subject Property is considered farmland of statewide importance, but due to the proximity to the City of Great Falls, will not have an effect on agricultural soil uses.

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

Applicant: This building will not promote erosion in the area.

Staff: The Planning Department does not anticipate a significant effect on soil erosion from the placement of the accessory use.

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

Applicant: This property is not agricultural.

Staff: The location of the subject property is located within Zone AE of the Regulated Floodplain Hazard Area according to FIRM Panel No. 30013C0626E (eff. March 19, 2013) . A Floodplain Permit Application has been submitted for this project, but has not been approved as of the date of writing this report.⁴ The applicant will be require to design and construct the accessory use to reduce flood risk. See Condition #4. The floodwater comes from three sources in this area: 1) Local stormwater run-off; 2) Overflow from Sand Coulee Creek near the junction of Lyman Cutoff Road and Gibson Flats Road; and 3) “backup” from Sand Coulee Creek.

³ <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>

⁴ In accordance with CCZR § 8.6 “Floodplain Regulations,” 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.

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

Applicant: This property is not agricultural.

Staff: The proposed accessory use will not negatively affect the agriculture industry.

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: This property will have no effect.

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

Applicant: This property is not in the vicinity of any military mission.

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

Applicant: This property or building is no in the vicinity of Malmstrom.

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

Applicant: This building will have no conflicts with Malmstrom mission.

Staff: The placement of the accessory use will not negatively affect the military presence of Malmstrom Air Force Base. The accessory use is not located within 2,400 feet of a Missile Alert Facility or Launch Facility. However, the accessory use is located in the Transitional Surface, MOD-B, in the Military Overlay District for restricting structure height to no more than 50 feet to prevent interference with the runway (see Condition #3).

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 build will add value to all properties in the area and will be [a] new build with pleasing curb appeal.

Staff: The proposed accessory use will likely have little to no impact on Cascade County's citizens' rural lifestyle.

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

Applicant: This building will have no negative effect to cultural or histoic

Staff: The subject property is not known to be a cultural/historic sites or a archaeological area.

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

Applicant: I will be keeping our property clear, uncluttered and mowed. [I am] helping my neighbors take care of their properties.

Staff: The proposed accessory use will be serviced by the Sand Coulee Fire Department, and is considered having a low risk terrain/fuel hazard not located in the Wildland Urban Interface⁵.

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

Applicant: This building will have no negative effect to recreation or health services.

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

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

Applicant: This is a residential area and the SUP stays with in said character.

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

Section 10.7 Operations

⁵ Based on the Community Fire Plan Wildland-Urban Interface Cascade County and Dearborn FSA Map.

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

Staff: Based on the information provided in the application, the proposed accessory use will not result in a use more objectionable to nearby properties because of noise, fumes, vibrations, or flashing lights. This proposed project will be a residential use.

Motions:

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

- A. Move that Special Use Permit #004-2022 to allow the construction of a accessory use without a principal use on Parcel # 2006000, be **denied** due to (ZBOA member proposing denial must delineate legal reason that the application be denied); or
- B. Move the Board to **adopt** the Staff Report in its entirety with Findings of Fact and **approve** Special Use Permit #004-2022 to allow the construction of a accessory use without a principal use on Parcel # 2006000 subject to the following conditions:
 1. The Applicant obtains any other required county, state, or federal permits and approvals, and comply with the laws, rules, regulations, and/or ordinances associated with any other permits and approvals.
 2. Applicant obtains an approved Subsurface Wastewater Treatment System Permit from the City-County Health Department prior to installation of any wastewater treatment system.
 3. The accessory use cannot exceed 50 feet in height.
 4. The Applicant must obtain an approved Cascade County Floodplain Permit before issuance of a Location/Conformance Permit.

Attachments:

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

cc: Greg Mackenstadt