

**STAFF REPORT
ZONING BOARD OF ADJUSTMENT**

Thursday, May 19, 2021

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 #007-2022

SUBJECT PROPERTY INFORMATION	
Name of Applicants & Owners:	Hugh Jacoby 9137 Sonora RD Phelan, CA 92371-7010
Legal Description:	SW ¼ of Section 28, Township 20 North, Range 04 East, MPM, Cascade County MT
Geo- Code:	02-3015-28-3-01-01-0000
Parcel Number:	2483400
Existing Zoning:	Suburban Residential District 1 (“SR-1”)
Requested Action:	Approval of a Special Use Permit to allow a 2 nd dwelling.
Surrounding Land Uses/Zoning:	North: Residential/SR-1 South: Agricultural/SR-1 East: Residential/SR-1 West: Residential/SR-1 Residential/SR-1 Residential/SR-1 Residential/SR-1
Current Land Use:	Residential
Applicable Regulations:	Sections 7.3.4 (1), 7.2.4 (4), 10, 16.1 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 Hugh Jacoby to allow a 2nd dwelling on the Subject Property. The Applicant is requesting that a SUP be granted as 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.

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 may be used in the SR-1 and SR-2 Districts. Pursuant to CCZR § 7.2.4(4), under the RR-5 District, a second dwelling is allowed with the issuance of a SUP.

Legal Notice of the Application and the public hearing was published in the Great Falls Tribune on May 8, 2022, and May 15, 2021 and mailed to adjacent property owners and interested agencies, via certified mail, on May 3, 2021.

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 will be a residence for an elderly person who does not drive. There will be no impact on traffic.

Staff: Access to the new dwelling unit will be from 40th Ave. SW. This is a publicly maintained road, maintained by Cascade County. The Planning Department does not anticipate significant amounts of additional traffic as a result of the addition of the second dwelling.

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

Applicant: We will be connecting to an existing electric box on rear of property installing a 1,000 gallon septic. We will install a 1,500 [gallon] cistern for water.

Staff: There will be minimal effect on the utilities at, or around the proposed parcels. Condition #3 is proposed to require all necessary permits for wastewater from the City-County Health Department. Condition #2 is proposed to ensure that in the event of an emergency the second dwelling is addressed separately to assist with locating the subject property to prevent avoidable delay and increase emergency response time.

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

Applicant: The property is flat and has no erosion or run-off. Standing water on center of property after heavy rain.

Staff: A significant amount of erosion and sedimentation is not anticipated.

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

Applicant: The septic field will be 25 feet from east property line, and 65 feet from [the] south property line/easement which is a pasture.

Staff: A condition of approval is recommended that will require the Applicant to obtain appropriate permits (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 will be a new build, single-story residence in Western Estates. This is a 6.6 acre lot and will not be close to adjoining property.

Staff: The Planning Department does not anticipate that the second dwelling will negatively impact the surrounding properties due to the surrounding residential uses in the vicinity. The subject property is adjacent to Castle Heights Subdivision to the West, and residential uses to the north and east.

- 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: Not applicable.

Staff: The Planning Department does not anticipate that the second dwelling will effect surrounding uses. The current surrounding uses are the same or similar to the proposed use. The second dwelling is not so necessary to the public health, safety and general welfare of the community as a whole.

- 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: This home will be in an existing residential [area] and will not pose any 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: This home will not adversely affect any farm or agriculture. It will be added to an existing residential lot in a subdivision.

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: We will be adding additional revenue to local business and healthcare facilities.

Staff: The placement of the second dwelling will help sustain and strengthen the real estate economy and meet housing demands that will help encourage home ownership within Cascade County.

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

Applicant: This will be an additional residence adding tax base and not requiring any additional county resources.

Staff: The proposed second dwelling 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: This doesn't apply, we are residential only and have no plans for business.

Staff: The proposed second dwelling is residential; therefore, it will not negatively impact business.

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

Applicant: *We will be having occasional out of state visitors who will spend money here while visiting.*

Staff: The placement of the second dwelling will not negatively impact tourism or cultural resources.

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

Applicant: *Not applicable, I am retired.*

Staff: The placement of the second dwelling will not negatively impact well-planned entrepreneurship among the county's citizenry.

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: *Not applicable, I have no businesses.*

Staff: The proposed second dwelling 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: *We will be shopping locally for our essentials.*

Staff: The proposed second dwelling will not negatively impact business and could promote local shopping and new businesses growth.

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: *Not applicable.*

Staff: The proposed second dwelling will not negatively impact economic development efforts.

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

Applicant: We will be buying local produce helping to support local agriculture.

Staff: This project will not negatively impact the agricultural economy.

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

Applicant: Not applicable, we will be using existing energy methods.

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: We will not pose a negative impact on the cattle business to our south.

Staff: According to the USDA Web Soil Survey², the Subject Property is considered farmland of statewide importance. The placement of the second dwelling 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: We are ecologically minded and respect our land and wildlife.

Staff: The placement of the second dwelling 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: We will be in an existing subdivision.

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.*

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

Applicant: We keep our property clean, maintained and don't pollute.

Staff: The subject property will need to obtain approval from the City/County Health Department for water/waste water of the second dwelling (see Condition #3). The placement of the second dwelling 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.*

Applicant: Not applicable, we will be using existing energy methods.

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

- F. *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: We will support any clean-up efforts but are unaware of any on this property.

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: We are grass covered.

Staff: According to the USDA Web Soil Survey³, the Subject Property is considered farmland of statewide importance. Farnuf Loam is the most prevalent soil type on the property. This soil has a high permeability, and are typically found in grassland areas.

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

Applicant: Our land is flat and grass covered.

Staff: The Planning Department does not anticipate a significant effect on soil erosion from the placement of this second dwelling. The Subject Property is approximately 6.6 acres. If more than one acre is disturbed during construction, a General Permit for Storm Water Discharges Associated with Construction Activity will be required by the Montana Department of Environmental Quality (see Condition #1).

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

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

Applicant: We are not in a flood zone.

Staff: The location of the subject property is not in a Regulated Floodplain Hazard Area.⁴

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

Applicant: Not applicable, we are residential.

Staff: The proposed second dwelling 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: I am a disabled veteran and fully support our military.

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

Applicant: Fully support any military bases.

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

Applicant: Full support keeping our military strong.

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

Applicant: I will cooperate with any conflict resolution.

Staff: The placement of the second dwelling will not negatively affect military presence. However, the placement of the second dwelling is in MOD-F of the Military Overlay District for Malmstrom Air Force Base which restricts the second dwelling from exceeding 500 feet in height to prevent interference with the runway (see Condition #4). The dwelling is not located within 2,400 feet of a Missile Alert Facility or Launch Facility.

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

⁴ Subject Property is located in Zone D based on FIRM Panel No. 30013C0603E.

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: I moved here to enjoy Montana's freedom. I respect others privacy and rights to land ownership.

Staff: The proposed second dwelling 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: I respect all cultures and enjoy Montana's history.

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 keep my property grass well maintained.

Staff: The proposed second dwelling will be serviced by the Gore Hill Fire Department, and is considered having a low risk terrain/fuel hazard not located in the Wildland Urban Interface⁵. However, the subject property is within a half of a mile from the Wildland Urban Interface and must maintain best fire management practices to mitigate all potential fire hazards.

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

Applicant: I will support these through my property taxes.

Staff: The placement of the second dwelling 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.

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

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: Based on the information provided in the application, the proposed second dwelling 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 #007-2022 to allow the construction of a second dwelling unit on Parcel #2483400, 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 and **approve** Special Use Permit #007-2022 to allow the construction of a second dwelling unit on Parcel #2483400 subject to the following conditions:
 1. The Applicant obtains any other required county, state, or federal permits and approvals, and comply with the laws, rules, regulations, and/or ordinances associated with any other permits and approvals.
 2. Applicant obtains addressing from the GIS Department for E911 purposes.
 3. Applicant obtains an approved Subsurface Wastewater Treatment System Permit from the City-County Health Department prior to installation of any wastewater treatment system.
 4. The second dwelling unit cannot exceed 500 feet in height.

Attachments:

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

cc: Hugh Jacoby