
NEW BUSINESS:

*Special Use Permit (SUP) #020-2020, SUP #021-2020, and SUP #022-2020,
Requests for Second Dwellings by Higgin Enterprises, LTD*

**STAFF REPORT
ZONING BOARD OF ADJUSTMENT
Thursday, February 18, 2021
9:00 a.m.**

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

- [1]SUP #020-2020
[2]SUP #021-2020
[3]SUP #022-2020**

Subject Property Information

Name of Applicant & Owner:	Higgins Enterprises LTD Rick & Judy Higgins PO Box 322 Ulm, MT 59484
Legal Description:	[1] S34, T20N, R03E, Lot 6 of River Bend Estates Subdivision [2] S34, T20N, R03E Lot 13 of River Bend Estates Subdivision Phase II [3] S34, T20N, R03E Lot 14 of River Bend Estates Subdivision Phase II
Geo- Code(s):	[1] 02-3015-34-3-02-11-0000 [2] 02-3015-34-3-02-26-0000 [3] 02-3015-34-3-02-27-0000
Parcel Number(s):	[1] 0002020168 [2] 0002020176 [3] 0002020177
Existing Zoning:	Suburban Residential District 2 (SR-2)
Requested Action:	Approval of a Special Use Permit to allow a 2 nd dwelling.
Surrounding Land Uses/Zoning:	North: Residential/ SR-2 South: Residential/ SR-2 East: Residential/SR-2 West: Residential/ SR-2
Current Land Use:	Residential Use
Applicable Regulations:	Cascade County Zoning Regulations (CCZR) §§ 7.1.2.3(1), 7.1.1.3 (1), 10, & 16.1

General Information:

The Cascade County Zoning Board of Adjustment (ZBOA) is in receipt of three (3) SUP Applications from Higgins Enterprises LTD to allow a duplex (second dwelling) on Lot 6 of River Bend Estates Subdivision and Lot 13 and 14 of River Bend Estates Subdivision Phase II. The Applicant is requesting that a SUP be granted as required by Sections 7.1.2.3(1), 7.1.1.3 (1), 10, & 16.1 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 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 is \$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:

1. Higgins Enterprises LTD is the legal owner of the property.
2. The properties are in the SR-2 District. A duplex is allowed in the SR-2 District with an approved Special Use Permit. CCZR §§ 7.1.2.3 (1)¹ and 7.1.1.3 (1)².
3. The property is not known to be in violation of any Cascade County Zoning Regulations or any other County Regulations or Ordinances, and county taxes are current.

¹ CCZR § 7.1.2.3(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."

² CCZR § 7.1.1.3 (1): "A second dwelling, including accessory dwelling units (examples: 1 single family home with garage apartment; or 1 duplex for two families; or two single family homes)."

4. Legal Notice of the Application and the public hearing was published in the Great Falls Tribune on February 7, 2021 and February 14, 2021 and mailed to surrounding property owners, via certified mail, on February 4, 2021. Notice was also sent to interested agencies, via mail, on February 4, 2021. As of writing this Staff Report, the Planning Department has received no phone calls or written comments/concerns.
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 will be handled as any other violation under Section 13 of the CCZR.
6. Appeals of the ZBOA's decision shall follow the process outlined in Section 12 of the CCZR.
7. Access to new dwelling unit(s) will be from [1] River Bend Drive, [2] Little Bear Lane, and [3] Little Bear Lane. These two roads are privately maintained.
8. The dwelling unit(s) are located in the Military Overlay District, MOD-F (Outer Horizontal Surface), for Malmstrom Air Force Base. No structure in the MOD-F zone can be greater than 500 feet in high based on the elevation of the helicopter runway at Malmstrom (3,526 feet).

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: The proposed multi-family lot was considered during development of the subdivision. As outlined in the "Roadway and maintenance section of the Community Impact Report prepared during the subdivision process, negative impacts are not anticipated from the subdivision with regard to traffic.

Staff: Each unit within the duplex is a single-family dwelling. The Planning Department does not anticipate additional traffic as a result of the proposed duplex that has not already been considered with the River Bend

Estates Subdivision and River Bend Estates Subdivision Phase II approvals.

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

Applicant: The proposed multi-family lot was included as part of the subdivision process, therefore provisions for services and utilities were developed.

Staff: The Planning Department anticipate there will be minimal effect on the utilities at, or around the proposed lots.

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

Applicant: Soil erosion, sedimentation, and storm water run-off were addressed during development of the River Bend Estates Subdivision.

Staff: The Planning Department does not anticipate a significant amount of erosion, sedimentation, or stormwater run-off from this proposal. The Cascade City/County Health Department has not commented at the time of writing this report.

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

Applicant: The proposed multi-family lot was included in the subdivision design and layout. Protection of water supplies was addressed during the subdivision process and approval by the Department of Environmental Quality and Department of Natural Resources was granted.

Staff: The Planning Department is recommending a condition of approval that will require the Applicant to obtain appropriate permits through the City-County Health Department.

- 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: The proposed multi-family lot was included in the design and layout of the proposed subdivision and fits with the character of the surrounding uses.

Staff: The Planning Department does not anticipate a negative impact on surrounding properties from the proposed duplex due to the surrounding residential uses and the approved River Bend Estates Phase I and Phase II Subdivision.

- 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: Negative impacts of the proposed multi-family lot on the value of adjoining property are not anticipated.

Staff: The Planning Department does not anticipate that the duplex will have an effect on surrounding uses considering that the surrounding residential 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: The proposed multi-family lot was included in the design and layout of the subdivision and is anticipated to be in harmony with the surrounding uses within the subdivision.

Staff: With the inclusion of the conditions of approval recommended, each duplex will be in harmony with existing residences.

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.

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: Construction of the multi-family housing on the proposed lot will stimulate building industry businesses.

Staff: The placement of each duplex 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: *N/A. The proposed multi-family lot is not anticipated to encourage the sustainable use of its natural resources.*

Staff: The placement of each duplex will not negatively impact 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: *N/A. The proposed multi-family lot is not anticipated to impact business development.*

Staff: The placement of each duplex will not negatively impact business.

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

Applicant: *N/A. The proposed multi-family lot is not anticipated to impact cultural resources and tourism.*

Staff: The placement of each duplex will not negatively impact tourism or cultural resources.

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

Applicant: *The River Bend Estates Subdivision is an example of well-planned entrepreneurship.*

Staff: The placement of each duplex 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: *N/A. The proposed multi-family lot is not anticipated to impact the local business environment other than the initial impact of construction on the building industry.*

Staff: The placement of each duplex will not negatively impact business.

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

Applicant: N/A. The proposed multi-family lot is not anticipated to improve local trade capture.

Staff: The placement of each duplex will not negatively impact business and will promote local shopping and new business 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: N/A. The proposed multi-family lot is not anticipated to impact economic efforts in the region and statewide.

Staff: The placement of each duplex will not negatively impact economic development efforts.

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

Applicant: N/A. The proposed multi-family lot is not anticipated to encourage the growth of the agricultural economy.

Staff: The placement of each duplex 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: N/A. The proposed multi-family lot is not anticipated to encourage use of alternative methods of energy production.

Staff: This project has not proposed the use for 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 multi-family lot is located within an existing approved subdivision and is therefore not anticipated to impact agriculture and forestry.

Staff: The placement of each duplex should not negatively impact grazing areas, 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: *The proposed multi-family lot is within an existing subdivision with ~ 2-acre lot sizes. The subdivision was planned in such a way to conserve the beauty of the area.*

Staff: The placement of each duplex will not negatively 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: *The proposed multi-family lot is within an existing subdivision.*

Staff: The River Bend Estates Phase I and Phase II Subdivision is located about 2 miles South West of the City of Great Falls. The River Bend Estates Major Subdivision and the River Bend Estates Subdivision Phase II was approved and filed in 2019.

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

Applicant: *The proposed multi-family lot is located within an existing subdivision which was developed and designed to provide a healthful environment and good community appearance.*

Staff: Each subject lot will need to obtain approval from the City/County Health Department for water/wastewater. The placement of each duplex 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: *Construction of the proposed multi-family housing will support development of natural resources.*

Staff: The placement of each duplex will not negatively impact natural resource development.

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

Applicant: N/A. The proposed multi-family lot is not anticipated to impact Superfund or Brownfields processes.

Staff: The subject properties are not located within a Superfund or Brownfields site.

GOAL 3: Maintain Agricultural economy

A. Protect the most productive soil types.

Applicant: The proposed multi-family housing is anticipated to impact a small portion of the [1] ~2-acre lot, [2] 2.05-acre lot, and [3] 2.05-acre lot. The natural soils are anticipated to remain in place.

Staff: According to the NRCS Web Soil Survey Map generated on the USDA government website³, there are no prime farmland soils located on the subject lots. The placement of each duplex will not directly impact productive soil types.

B. Continue to protect soils against erosion.

Applicant: Re-vegetation of disturbed areas is planned after construction is complete to prevent erosion.

Staff: According to the application material, the Applicant plans on incorporating landscaping on areas of the lots that have been disturbed. This incorporation will help to protect against soil erosion.

C. Protect the floodplain from non-agricultural development.

Applicant: No impact on the floodplain is anticipated by the proposed multi-family lot.

Staff: Lots 6, 13, and 14 are not located in a regulated floodplain.

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

Applicant: N/A. The proposed multi-family lot is not anticipated to impact the value-added agricultural industry.

Staff: The placement of each duplex will not negatively affect the agriculture industry.

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

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: N/A. The proposed multi-family lot is not anticipated to impact the federal congressional delegation with regard to the military in Cascade County.

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

Applicant: N/A. The proposed multi-family lot is not anticipated to promote the location of additional military missions in Cascade County, other than providing additional potential housing for military families.

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

Applicant: N/A. The proposed multi-family lot is not anticipated to encourage reactivation of the runway at Malmstrom Air Force Base for fixed wing operations.

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

Applicant: N/A. The proposed multi-family lot is not anticipated to create conflicts with regard to military operations in Cascade County.

Staff: The proposed project will not negatively affect military presence. However, each proposed duplex is in MOD-F within the Military Overlay District which restricts each structure built on the respective properties from exceeding 500 feet in height as to not interfere with the runway.

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 multi-family lot on a [1] ~2-acre, [2] 2.05-acre, and [3] 2.05-acre parcel is anticipated to maintain the citizens' independent lifestyle.

Staff: Each duplex 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: The proposed multi-family lot is not anticipated to impact the County's rich cultural heritage.

Staff: Each duplex will likely have little to no impact on Cascade County's rich cultural heritage and are not known to be cultural/historic sites or 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 was addressed as part of the Riverbend Estates Subdivision Process and utilization of Lot 6 for multi-family housing was considered.

Staff: Each duplex will be serviced by the Gore Hill Volunteer Fire Department. The River Bend Estates Subdivision and the River Bend Estates Subdivision Phase II have a fire suppression system. The Gore Hill Volunteer Fire Department has not commented at the time of writing this report.

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

Applicant: The proposed multi-family lot is anticipated to add to the County's tax paying population for contribution to the educational facilities, recreational opportunities, and health services for residents.

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

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

Applicant: The proposed multi-family lot is [anticipated] to be in harmony with the planned uses for the area.

Staff: The proposed project 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: From the application material submitted, each proposed duplex 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 Permits #020-2020, #021-2020, and #022-2020 to allow the construction of a second dwelling unit on:
Lot 6 of River Bend Estates Subdivision
Lot 13 of River Bend Estates Subdivision Phase II
Lot 14 of River Bend Estates Subdivision Phase II
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 Permits #020-2020, #021-2020, and #022-2020 to allow the construction of a second dwelling unit on:
Lot 6 of River Bend Estates Subdivision
Lot 13 of River Bend Estates Subdivision Phase II
Lot 14 of River Bend Estates Subdivision Phase II
subject to the following conditions:
1. The Applicant obtains any other required county, state, or federal permits and comply with regulations associated with any other permits.
 2. Applicant obtains address from the GIS Department for E911 purposes.
 3. Applicant obtains an approved Subsurface Wastewater Treatment System Permit from the City-County Health Department prior to installation of any wastewater treatment system.
 4. Each second dwelling unit cannot exceed 500 feet in height.

Attachments:

- Special Use Permit Application
- Vicinity and Zoning Maps
- Applicable Zoning Regulations, highlighted.

cc: Rick & Judy Higgins