

CASCADE COUNTY  
**ZONING BOARD OF ADJUSTMENT**

02/18/2021

9:00 AM

Zoom Online Video Meeting

*Board Members: Kathryn Hanning, John Harding, Charles Kuether, Ken Thornton, and Leonard Reed.*

**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:** Anna Ehnes, Carey Ann Haight, Amber Hobbs, Sandor Hopkins, Kevin Nurre, Jake Wilkinson, and Charity Yonker.

**PUBLIC ATTENDEES:** Judy Higgins, Rick Higgins, Ray Tripodi, and Ronda Wiggers.

1. **CALL TO ORDER:** The Planning Director Charity Yonker called the meeting to order at 09:01 AM, [00:01:22].<sup>1</sup>
2. **ROLL CALL:**
  - BOARD MEMBERS PRESENT:** Kathryn Hanning, John Harding, and Ken Thornton.
  - BOARD MEMBERS ABSENT:** Charles Kuether and Leonard Reed.
3. **APPROVAL OF THE MINUTES:** None
4. **OLD BUSINESS:** None

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<sup>1</sup> The Planning Director calls the meeting to order because no elected officers had been appointed at the start of this meeting.

5. NEW BUSINESS:

A. Board Election of Officers [00:03:03].

1. Board Discussion & Action:

**Charity Yonker:** Says that the Board will need to appoint a Chair and a Vice-Chair.

**John Harding:** Asks if the previous Chair is no longer on the Board.

**Charity Yonker:** Says that is correct and that Bill Austin was the previous Chair.

**John Harding:** Asks if Bill Austin is no longer on the Board and if the Board is comprised of five (5) members.

**Charity Yonker:** Says that is correct.

**John Harding:** Asks if Mr. Kuether, Mr. Thornton, or Mr. Reed are interested in being the Chair.

**Charity Yonker:** Says that she has not heard if they do or do not want to be Chair. She says that Mr. Kuether is highly active in the ZBOA (Zoning Board of Adjustment) and he may have an interest and that Mr. Kuether asked for her to let the Board know that he could not attend today's meeting and that he was curious to know who was appointed.

**Ken Thornton:** Thinks that Mr. Kuether would make a good Chair. He says that Mr. Kuether is articulate and knowledgeable.

**John Harding:** Asks how long Mr. Kuether has been a Board member on this Board.

**Charity Yonker:** Says that Mr. Kuether has served at least two separate terms, at least four years on the ZBOA.

**John Harding:** Asks if Mr. Reed has been on the Board for a while.

**Charity Yonker:** Says that he has.

**John Harding:** Says that he has been a Board Chair and volunteered to be the Chair of the ZBOA if anyone wanted him to. He says because Mr. Kuether and Mr. Reed understand the ZBOA process that they would be in a better position to be Chair and he would like to know if they would be interested. John asks if the Board election can be postponed to the next meeting.

**Charity Yonker:** Says that if we were to table the Board election then we would not have an acting Chair or Vice-Chair for this meeting. She then asks Carey Ann Haight if the Board would be able to take any action on the meeting items without a Chair.

**Carey Ann Haight:** Says that the Chair decides points of order and conducts the meeting, and the Vice-Chair would do that in the Chair's absence. She says that in terms of the overall authority of the Board to be able to conduct business, not having a Chair or Vice-Chair at the meeting should not be a problem at least regarding the Bylaws.

**John Harding:** Asks who the most recent Chair was.

**Charity Yonker & Carey Ann Haight:** Says Bill Austin.

**John Harding:** Asks when Bill Austin's last meeting was.

**Charity Yonker:** Says it was the December 2020 meeting.

**John Harding:** Asks if Bill Austin resigned or if his term was up.

**Charity Yonker:** Says that Bill Austin's term expired

**John Harding:** Asks if there was no discussion on the December 2020 ZBOA meeting as to who the next Chairperson would be.

**Charity Yonker:** Says that is correct.

**Carey Ann Haight:** Says that several terms were expiring in December. Discussing the future Chairperson at the December meeting would not have been a good discussion because at that time they did not know who was going to be serving on the Board.

**Kathryn Hanning:** Suggests that Mr. Harding be appointed Vice-Chair so the current meeting can move forward.

**John Harding:** Asks Mr. Thornton if he has any thoughts about Ms. Hanning's suggestion.

**Ken Thornton:** Says that he agrees with Mr. Harding becoming Vice-Chair.

**John Harding:** Believes that he will be brought up to speed fairly soon.

**Ken Thornton:** Agrees.

**Kathryn Hanning:** Motions to have Mr. Harding serve as Vice-Chair and Mr. Kuether serve as Chair of the ZBOA.

**Ken Thornton:** Seconds the motion to have Mr. Harding serve as Vice-Chair and Mr. Kuether to serve as Chair of the ZBOA.

**Kathryn Hanning:** Asks if public comment is needed.

**John Harding:** Says that because this is a Board issue, public comment is not needed. He asks if there is any other discussion on the motion amongst the Board.

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

**John Harding:** Asks Ms. Yonker if she would like to continue to conduct the meeting or if she would like him to.

**Charity Yonker:** Says that she would be happy to have Mr. Harding conduct the meeting if he would like to.

**John Harding:** States he is ready to start the process. He takes over on conducting the meeting and states what the Board has covered so far.

**B. Special Use Permit (SUP) #016-2020, SUP #017-2020, SUP #018-2020, and SUP #019-2020, Requests for Second Dwellings by Signature Homes, LLC. [00:10:50].**

**1. Anna Ehnes presents the Staff Report.**

**2. Motions:**

**Alternative 1:** Move that Special Use Permits #016-2020, #017-2020, #018-2020, and #019-2020 to allow the construction of a second dwelling unit on:

BLOCK 016, Lot 002, Phase III of the Foothills Ranch Subdivision

BLOCK 015, Lot 011, Phase III of the Foothills Ranch Subdivision

BLOCK 015, Lot 010, Phase III of the Foothills Ranch Subdivision

BLOCK 016, Lot 005, Phase 111 of the Foothills Ranch Subdivision

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 in its entirety and **approve** Special Use Permits #016-2020, #017-2020, #018-2020, and #019-2020 to allow the construction of a second dwelling unit on:

BLOCK 016, Lot 002, Phase III of the Foothills Ranch Subdivision

BLOCK 015, Lot 011, Phase III of the Foothills Ranch Subdivision

BLOCK 015, Lot 010, Phase III of the Foothills Ranch Subdivision

BLOCK 016, Lot 005, Phase III of the Foothills Ranch Subdivision

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 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. Each second dwelling unit cannot exceed 150 feet in height.”

3. **Board Discussion: None, [00:36:15].**

4. **Public Hearing opens at 09:37 AM, [00:36:35].**

**John Harding:** Asks Ms. Yonker at this point if the meetings are normally conducted with comments from proponents and opponents than from any other public members that want to speak.

**Charity Yonker:** Answers yes to the Vice-Chair’s question and also says that they usually open it up to the Applicant if they want to speak, then the proponent with three (3) calls, then the opponents with three (3) calls.

**John Harding:** Asks if the Applicant has any comments.

**Proponents:** None.

**Opponents:** None.

**Public Hearing closes at 09:38 AM.**

5. **Board Discussion & Action: [00:38:06].**

**Ken Thornton:** Expresses his concern about having two homes on an SR-2 Lot, the general purpose of the regulations, and the future home buyers for this area.

**Kathryn Hanning:** Says that there are currently townhomes in this area and does not think that the proposed townhomes will be a problem.

**Ken Thornton:** Asks if Special Use Permits were done on these other townhomes in the area.

**Anna Ehnes:** Says that there were Special Use Permits done within the last year for multiple townhouses in that area.

**John Harding:** Says that a public hearing like this, allows people to speak on this subject and that this type of development has become popular in Montana. Then, he asks if there is any other discussion.

**Kathryn Hanning:** “I move the Board to adopt the Staff Report in its entirety and **approve** Special Use Permits #016-2020, #017-2020, #018-2020, and #019-2020 to allow the construction of a second dwelling unit on:

BLOCK 016, Lot 002, Phase III of the Foothills Ranch Subdivision

BLOCK 015, Lot 011, Phase III of the Foothills Ranch Subdivision

BLOCK 015, Lot 010, Phase III of the Foothills Ranch Subdivision

BLOCK 016, Lot 005, Phase III of the Foothills Ranch Subdivision

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 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. Each second dwelling unit cannot exceed 150 feet in height.”

**Ken Thornton:** Seconds the motion

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

C. Special Use Permit (SUP) #020-2020, SUP #021-2020, and SUP #022-2020, Requests for Second Dwellings by Higgin Enterprises, LTD [00:44:10].

1. Amber Hobbs presents the Staff Report.

**Alternative 1:** “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

**Alternative 2:** “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.”

2. Board Discussion [01:11:42].

**John Harding:** Asks the Board if they have any questions for Staff.

**Ken Thornton:** Asks if there are any other townhomes in this area that have been approved in the last few years.

**Amber Hobbs:** Says that she is not sure about townhomes in the area but that there are currently no townhomes in this subdivision.

**Ken Thornton:** Asks about the other subdivisions in the area.

*[Inaudible discussion amongst the Planning Department.]*

**Amber Hobbs:** Says she thinks these are the first ones in the area.

**John Harding:** Asks about the statement under findings of facts in the Staff Report that states the use of a duplex is allowed in the SR-2 District.

**Amber Hobbs:** Says that this use is allowed in the SR-2 District with an approved Special Use Permit.

**John Harding:** Asks that when they developed this subdivision if a portion of the subdivision was developed as SR-2.

**Amber Hobbs:** Says that the two in SR-2 refers to the minimum Lot size for that District.

**John Harding:** Confirms that the two in SR-2 are the Lot size and not two dwellings per Lot.

**Ken Thornton:** Says single dwelling is in the SR-2 designation and with a Special Use Permit you might be able to get the second dwelling. He says the way it reads is single dwelling Lots.

**Amber Hobbs:** Says that a single-family dwelling is a permitted principal use in that district.

**John Harding:** Asks if there are any other questions for Staff and states that there are duplexes in Spring Tree.

**Ken Thornton:** Says that he was wondering about duplexes out in Woodland Estates and states his concern for future buyers in this area and that they have no say in the proposal of a duplex in this subdivision. He then asks if the Planning Department received any opponents in response to the notices that were sent out. He also asks what the radius was when the notification was sent out and how close do you have to be to comment on this subdivision.

**Amber Hobbs:** Says that the Planning Department is required to notify all adjacent property owners. Adjacent property owners for this proposal were notified by certified mail. The Planning Department did not receive any opponents, only a phone call from an adjacent property owner that requested more information on the proposal.

**Kathryn Hanning:** Says that the cost of land is expensive, and townhomes offer buyers an affordable option within a nice subdivision. She says she does not see a problem with townhomes but understands why this use needs a Special Use Permit. She addresses that notification has gone out for this proposal and no comments were received. She then asks the Staff if Planning Board had a problem with duplexes in this subdivision when it was going through the subdivision review process.

**John Harding:** Says that he was on the Planning Board at the time and does not recall the idea of the townhouses in this subdivision. He was under the impression that they would be for single-family dwellings.

**Kathryn Hanning:** Asks Staff if the plan for multi-family homes in this subdivision was included in the Staff Report.

**Charity Yonker:** Believes that when this subdivision went through Planning Board and Commission, it was framed as Single-family Dwelling per Lot.

**John Harding:** Asks if there are any other questions for Staff. Hearing none, he asks if the Applicant would like to make any comments.

*[Applicant is muted, and the Board is waiting for the Applicant to unmute.]*

*[Inaudible discussion among the Planning Department.]*

**Judy Higgins at PO Box 322, Ulm, MT 59485:** Says that Lots in this subdivision were designated for townhomes and approved by DEQ as townhome Lots. All the lot owners in this subdivision know that these Lots are designated for townhomes. She says that prospective buyers and realtors are asking about the townhomes.

**John Harding:** Asks the Board if there are any questions for the Applicants

**Ken Thornton:** Asks the Applicant how many of the Lots around the townhome Lots have already sold.

*[There is an issue with the zoom audio.]*

**Kathryn Hanning:** Asks Mr. Thornton to repeat the question.

**Ken Thornton:** Repeats the question.

**Rick Higgins at PO Box 322, Ulm, MT 59485:** Says one.

**Judy Higgins:** Says no, in phase one of this subdivision, 7 Lots have been sold. Phase two of this subdivision has 8 Lots that have been sold.

### 3. Public Hearing opens at 10:23 AM, [01:24:17].

#### Proponents:

**Carey Ann Haight:** Says that we should let people know how to let us know that they want to comment on Zoom.

**John Harding:** Says that he does not see anyone on Zoom with comments.

**Rick Higgins:** Talks about when he presented this subdivision for review in 2018. He says the properties to the North and West of the Subdivision are zoned as SR-1. He says that he discussed rezoning from SR-2 to SR-1, but he says that Sandy Johnson at the Health Department advised against that. He asks if anyone can clarify.

**Anna Ehnes:** Says that we are looking into it.

*[Inaudible discussion amongst the Planning Department.]*

**Charity Yonker:** Says that North of Dick road is zoned SR-1 and directly to the West is SR-1.

**Opponents:** None.

**Public Hearing closes at 10:28 AM.**

### 4. Board Discussion & Action: [01:28:16].

**John Harding:** Says he will make a couple of comments and will then entertain a motion. He says that it is quite common to see duplex homes incorporated into these types of developments and believes it is an appropriate use of the land and is affordable. He says that it does not appear that these types of projects do anything to devalue the property.

**Ken Thornton:** Says that he lives in the area and is concerned about the rural nature. He is concerned that the people most affected will be the future buyers who do not have a say right now. He would rather this be done after all the Lots around the duplex Lots are sold. He says that it is concerning that this is not being done in an established community so that the future owners have a say in this.

**Kathryn Hanning:** Says the future buyers do have a choice if they come in afterward because they would not have to buy in that subdivision. She says that future buyers should see it now instead of being surprised by it later. She says the Applicant has gone through the process and the conditions are the standard conditions. She asks if Staff checked to see if multi-family Lots were included in the planning of the Subdivision.

**Charity Yonker:** Says that on the River Bend Estates, Phase 2 Plat, Lots 13 and 14 are marked as multi-family Lots. Lot 6 is not delineated on the Plat as single-family or multi-family.

**Kathryn Hanning:** Asks if there were no qualms by the Planning Department or the Planning Board for the Lots at the time of subdivision review.

**Charity Yonker:** Says not that she recalls.

**Ken Thornton:** Says that Planning Board is not their purview it is the Zoning Board that decides.

**Kathryn Hanning:** "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:

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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."

**Ken Thornton:** Seconds the motion.

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

**John Harding:** Says that it makes for a tougher meeting with only 3 people. He thanks Rick Higgins.

**Rick Higgins:** Says thank you.



6. BOARD MATTERS: None, [01:35:20].

7. PUBLIC COMMENTS REGARDING MATTERS WITHIN THE BOARD'S JURISDICTION [01:35:40].

**Rhonda Wiggers at 4774 US HWY 89, Vaughn, MT 594487:** Says she wanted to introduce herself to the new Board members. She says that she monitors the Boards on behalf of the Great Falls Home Builders.

**John Harding:** Says thank you and asks for any other public comments.

8. ADJOURNMENT AT [10:36 AM], [01:36:42].

**Ken Thornton:** Makes motion to adjourn.

**John Harding:** Say we are now adjourned.

DRAFT