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5 1. **CALL TO ORDER** – Chair Kopitzke called the meeting to order at 7:00 PM

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7 2. **PLEDGE OF ALLEGIANCE** – was recited.

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9 3. **ROLL CALL** – Present: Chair Kris Kopitzke, Scott Patten, Doug Parker, Christian Dawson (arrived late),
10 Justin Sykora, Roger Bowman, James Langan. Absent were Kuchen Hale & Sally Doherty (excused).
11 **ALSO IN ATTENDANCE** – Council member Wroblewski, City Administrator Ron Moore

12
13 4. **APPROVAL OF AGENDA** –

14 Regarding Item 7b Sykora has a conflict of interest, will be stepping down during discussion

15 **Motion/Second Bowman/Parker To approve the Agenda of the February 3, 2020 Planning Commission**
16 **meeting. Passed 6-0.**

17
18 5. **APPROVAL OF MINUTES** –

19 A. January 6, 2020

20 **Motion/Second Patten/Parker To approve minutes of the January 6, 2020 Planning Commission**
21 **meeting. Passed 6-0-1. (Langan abstain due to absence)**

22
23 6. **REPORTS AND PRESENTATIONS** - None

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25 7. **PUBLIC HEARINGS** –

26 A. **Lisa Buck Variance Application**

27 Administrator Moore provided a summary of the application for construction of a detached garage. Two
28 variances are required for set back and slope.

29 Chair Kopitzke opened the public hearing at 7:05 p.m.

30 No public comments were received.

31 **Motion/Second Bowman/Sykora to close public hearing. Passed 7-0.**

32 Public hearing closed at 7:07 p.m.

33 discussion

34 Bowman asked about retaining wall location and noted the new one will be within a few feet of where the old
35 one is. The patio area facing toward the residence creates new space.

36 Kopitzke stated that this is the minimum variance.

37 Parker asked about the other building (garden shed that will be gone), sink plumbing and septic question (more
38 information will be gathered).

39 Sykora asked about moving the building further toward the road (this is the flat area; if closer to road it would
40 also be in front of house).

41 Bowman issue is slope to house from new building. Would like to minimize the footage being cut into the slope.
42 (this drawing is the preliminary draft, minimum needed is 6' for drainage).

43 Bowman & Sykora both asked if slope could be more natural rather than retaining wall.

44 Bowman noted that staff condition was that grading meet approval of city engineer, would add “with aim toward
45 minimizing the slope”.

46 **Motion/Second Bowman/Kopitzke to recommend approval to City Council with findings and conditions**
47 **recommended by staff with amendment “with aim toward minimizing the slope”.**

48 **Findings**

- 49 1. The subject property is located in the Rural Residential zone, as are the properties to the
50 west, north and south. The property to the east is zoned VHS-R.
- 51 2. The subject property contains steep slopes to the west
- 52 3. The subject property contains an existing outbuilding built into a steep slope area
- 53 4. The subject property has an irregular shape, due to a curving public road that encroaches
54 into the southeast corner of the property where the garage is proposed to be located.
- 55 5. The proposed garage requires grading in an area with a slope of 12% or greater.
- 56 6. The proposed garage and driveway utilize an area of flatter land on the property.
- 57 7. The proposed garage location aligns with the existing house location.

58 **Conditions**

- 59 1. The garage shall be constructed according to the plans submitted with the variance application,
60 except as the plans may be revised by the Council or as revisions of plans may be approved by
61 the Council.
- 62 2. All grading, drainage and erosion control plans, including the retaining wall plans, shall be
63 subject to review and approval by the Zoning Administrator and City Engineer, and by the Valley
64 Branch Watershed District if they meet permit thresholds.
- 65 3. The existing outbuilding shall be removed from the property prior to the issuance of a building
66 permit.

67 Parker stated that we also need to check on sink drainage.

68 **Vote 6-1 (Patten nay)**

69
70 **B. Five Oaks Farm Subdivision**

71 Chair Kopitzke opened the Public Hearing at 7:23 p.m.

72 Administrator Moose provided a summary: Five Oaks Family Farm has applied for a Minor Subdivision and
73 Variance at 120 and 502 Stagecoach Trail to subdivide the two existing parcels to create three parcels. The two
74 existing parcels are 148 acres and 92 acres respectively, and each has an existing house. The proposed
75 subdivision would create three parcels 1) 73 acres; 2) 28 acres; 3) 139 acres. The two smaller parcels are planned
76 to remain residential parcels. The large parcel is planned to be donated to the Belwin Conservancy.

77 The lots meet requirements except for 300' frontage on public road. Application is for variance for road
78 frontage.

79 Attorney Tom Radio provided information on the subdivision.

80 Cindy Gehrig, Belwin Board member stated the timeline for donation is up to 2 yrs. Thinks this is magnificent
81 donation.

82 David Hartwell, President, stated that this is a unique opportunity. Belwin owns property on 3 sides of this land.

83 John Gilphin, neighbor, stated the previous owners had vision of preserving this land and would encourage the
84 Planning Commission to accommodate the request.

85 Richard Bend, 1002 Stagecoach Tr S, neighbor provided a presentation on the property and described why he
86 is in favor of the request and protection of the parcel.

87 No other comments received.

88 **Motion/Second Patten/Dawson to close public hearing. Passed 6-0.**

89 Hearing closed at 7:46 pm

90 Discussion

91 Dawson clarified the link to other Belwin property.

92 Kopitzke felt intent of the 300' road frontage requirement was to keep space between houses. In this plan there
93 is no impact.

94 Bowman stated this is recognition that in rare circumstance variances are granted.

95 Parker asked if the donation set ? (attorney requests that city does not make the donation a condition of variance
96 for tax purposes).

97 **Motion/Second Bowman/Patten to recommend of the variance to City Council with staff findings and
98 conditions.**

99 **Findings**

- 100 1. The subject property is located in the Rural Residential zone, as are the properties to the
101 west and south. The property to the east is zoned Agricultural.
- 102 2. The Rural Residential zone allows residential use with five-acre minimum lot size.
- 103 3. The Rural Residential zoning would allow the property to be subdivided to create a large
104 number of 5-acre lots, through the construction of new public roads serving the lots.
- 105 4. All lots in the subdivision meet the minimum five acre lot size
- 106 5. All lots meet the minimum 2.5 acres of contiguous buildable area
- 107 6. The property owner intends to donate Parcel 3 to Belwin
- 108 7. The property has sufficient frontage on Stagecoach Trail to provide at least 300 feet of
109 frontage for three separate lots
- 110 8. Proposed Parcels 1 and 2 do not have 300 feet of frontage on a public road

- 111 9. There is no access from the subject property to a public road to the north, south or west.
112 The only public road serving the 240-acre property is Stagecoach Trail, which runs along
113 the east boundary of the property.
114 10. The property includes substantial areas of steep slopes
115 11. The two existing parcels are served by two existing driveways that provide access to
116 Stagecoach Trail, and Parcels 1 and 2 are proposed to continue to be served by the same
117 two driveways
118 12. Providing 300 feet of frontage for the three proposed lots would require extending Parcels
119 1 and 2 to Stagecoach Trail, which would substantially reduce the size of Parcel 3; or
120 would require the construction of a cul de sac street from Stagecoach Trail to Parcels 1 and
121 2.

122 **Conditions**

- 123 1. Easements as required by the City Engineer, including private driveway easements and utility and
124 drainage easements, shall be granted
125 2. All easements shall be subject to the review and approval of the City Engineer.
126 3. Scenic easements shall be placed on all slopes greater than 18%
127 4. The applicant shall execute a scenic easement agreement and shall record the scenic easement
128 concurrent with the subdivision
129 5. If Parcel 3 is donated to Belwin and no dwelling is to be built on the parcel, the park
130 dedication fee shall be waived. However, if Parcel 3 is not donated to Belwin within 24
131 months of the approval of the subdivision, the park dedication fee shall be paid
132 immediately upon the expiration of the 24 month period.
133 6. Any new driveway(s) to serve Parcel 3 shall comply with Section 12-84 of the Zoning
134 Ordinance and be subject to review and approval by the City Engineer.
135

136 Langan stated that this is setting a precedent and could cause potential issues down the road.

137 Kopitzke stated that the key is writing good findings of why this situation is unique.

138 Langan would like to know long term if it is protected, has seen issues in other areas.

139 Tom Radio stated he would work with Ron to develop findings. Could state that the variance has no impact on
140 future approvals and that the city is gaining park donation that otherwise could not afford.

141 **Motion vote: Passed 6-0.**

142
143 C. Brooks Variance at 14186 Valley Creek Trail

144 Chair Kopitzke opened the Public Hearing opened at 7:57pm

145 Administrator Moose provided a summary of the application to replace the existing house and garage.
146 Variance is needed for setbacks.

147 Adjacent neighbor wants to be sure it won't impact them. Had discussed possibly selling or trading but never
148 came to agreement.

149 Applicant made offer but wasn't negotiated.

150 No other comments were received.

151 **Motion/Second Patten/Parker to close public hearing. Passed 6-0.**

152 Hearing closed at 8:07 p.m.

153 Kopitzke asked why driveway variance is needed if it is existing driveway? (Moose replied that they are
154 building a new home and have opportunity to move driveway, should get variance if keeping in same place).

155 Bowman asked if they bought with intention to rebuild (yes).

156 Parker asked about lot size? (10.4 acres)

157 Sykora asked why not get a bridge to other area of lot? (Shoreland ordinance does not allow in zone).

158 Mr Brooks stated the existing house foundation has been condemned; they cannot add on or remodel.

159 Parker asked if the house could move closer to road to protect creek more? (already moved a couple feet from
160 creek in design)

161 Parker asked when was septic inspected? (new 10 yrs ago, checked at purchase 2 years ago)

162 Langan asked about elevation above water line?
163 Bowman asked about flood impact up to house? (watershed says outside floodplain)
164 Bowman stated this is a large home close to road.
165 Kopitzke asked about moving the house to another location.
166 Mr Brooks stated there is no place on this side of creek where they can meet variances and be out of floodplain.
167 Original intent was remodel, engineer condemned foundation. House would be cottage type, natural stone to fit
168 setting.
169 Patten noted it is not any closer to creek than existing house.
170 Bowman stated his concern is precedent set.
171 Sykora stated this is a built lot in Afton. Question is this the best way to do this?
172 Langan stated he doesnt feel its right to have people buy property and ask for variance. Not fair to neighbor.
173 Bowman stated the setback from road is to protect image of Afton. House this close to road will look very
174 different from the rest of the area. That is issue, it will stand out.
175 Kopitzke stated there is no ordinance against size of house. Any house here will be between creek and road.
176 Parker stated he is concerned about creek protection.
177 Bowman asked about timing on this? (Moorse stated that if tabled to another meeting would run past 60 days,
178 would write letter to extend).
179 Parker agreed there are ways to minimize variances, driveway and lot line could be resolved.
180 Kopitzke summarized the four 4 setbacks of concern: Creek, road center line, side yard and driveway. Some
181 could be avoided by design change. There are some options.
182 **Motion/Second Kopitzke/Parker to table until next month or when applicant is ready.**
183 Discussion
184 Sykora would decline application at this point and ask for new.
185 Dawson stated if garage is not attached and they use existing garage & driveway that would eliminate one set
186 back issue.
187 Patten stated it is still a big house next to road.
188 **Vote: passed 6-1 (Langan nay)**

189
190 **8. NEW BUSINESS –**

191 A. Election of Officers

192 **Motion/Second Dawson/Patten to nominate Kris Kopitzke for Chair, Doherty for Vice Chair, Doug**
193 **Parker for Secretary. Passed 7-0.**

194
195 B. Development of Non-Compliance Fees

196 Administrator Moorse will see what other cities do and check with city attorney.

197 Kopitzke stated the council is looking for a framework for land use issues that can be applied to other issues.

198
199 **9. OLD BUSINESS –**

200 A. Draft Short Term Residential Rentals Ordinance

201 Updates were made based on Stillwater’s ordinance and feedback. Public hearing will be in March.

202
203 B. Update on City Council actions

204 Council member Wroblewski provided a summary of the January City Council meeting.

205
206 **10. ADJOURN**

207 **Motion/Second Sykora/Dawson To adjourn. Passed 7-0.**

208 Meeting adjourned at. 9:20pm

209
210
211
212 Respectfully submitted by:

214 JY

215 Julie Yoho, City Clerk

216

217

218 **To be approved on March 2, 2020 as (check one):** Presented: x or Amended:

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