

The meeting was held remotely via Zoom due to the Covid-19 pandemic.

1. **CALL TO ORDER** – Chair Kopitzke called the meeting to order at 7:02 PM
2. **ROLL CALL** – Present: Chair Kris Kopitzke, Kuchen Hale, Doug Parker, Sally Doherty, Justin Sykora, Christian Dawson, Roger Bowman, Scott Patten. Absent was James Langan. A quorum was present.
ALSO IN ATTENDANCE – Council member Lucia Wroblewski, City Administrator Ron Moore
3. **APPROVAL OF AGENDA** –
Chair Kopitzke suggested moving the new business item after the old business
Motion/Second Kopitzke/Doherty To approve the agenda for the February 1, 2021 Planning Commission meeting. Roll call: all aye, Passed 8-0.
4. **APPROVAL OF MINUTES** –
 - A. December 7, 2020
Motion/Second Bowman/Hale approve the minutes of the December 7, 2020 Planning Commission meeting. Roll call: 6 aye, Passed 6-0-2 (Doherty, Dawson abstain due to absence).
 - B. January 4, 2021
Line 187 spelling
Motion/Second Bowman/Parker approve the minutes of the January 4, 2021 Planning Commission meeting with spelling correction. Roll call: all aye, passed 8-0.
5. **REPORTS AND PRESENTATIONS** - None
6. **PUBLIC HEARINGS** –
 - A. Tony Sonnen Preliminary Plat for 6 lot subdivision at 680 Neal
Moore provided a summary: Tony Sonnen has requested preliminary plat approval of a six-lot single-family residential subdivision entitled “Saint Joseph Pines.” The subject site, located at 680 Neal Avenue, overlays 40 acres of land located in the northwest corner of the City, west of Neal Avenue South between Hudson Road and 10th Street South. The site is zoned RR, Rural Residential. The variance application is for the length of the cul de sac, which is 550’ longer than allowed. Parcel is long and narrow. NRGC comments regarded septic sites and the tree preservation ordinance. Parks committee discussed dedication and recommend cash.
Bob Kirmis, City Planning Consultant, noted that lots 1-4 are within 1000’ of shoreland district setbacks. Would recommend approval with conditions outlined in memo.

Chair Kopitzke opened the public hearing at 7:26PM
Rick Packer, Gonya Homes Golden Valley, representing the applicant Tony Sonnen (also present). Road access will be along the south side of property with wide right of way, cul de sac longer. Alternative design would remove too many trees.
Rubenstien, owner to north. Would like to know if there will impact to the north?
Packer replied no, activities are along south boundary.
No other comments were received.
Motion/Second Hale/Parker to close public hearing. Roll call: all aye, passed 8-0.
Public hearing closed at 7:32 PM.

Bowman asked if the applicant is aware of relationship with any surrounding properties? (no)
Parker asked about distance of road from southern property line (minimum of 13’, up to 25’).
Bowman asked if property to south would develop, what is setback? (105’ to centerline of road).
Parker stated that the design chosen is creating the hardship.
Dawson asked about existing building on neighbor property (there aren’t any structures, house is distance away).

58 Kopitzke stated he has no issue with the plat, struggle with need for variance. If cul de sac is shorter with
59 one big lot at the end, they wouldn't need variance. Doesn't see hardship.
60 Hale reading the NRCG suggestions, that is what they said. 5 lots rather than 6. Tough to find hardship due
61 to land, rather than what they want to do with land.
62 Packer stated the hardship is due to the lay of the land and attempt to preserve wooded areas of site.
63 Sonnen stated they want to retain the existing farmhouse. If road is moved, the house would be removed
64 along with many trees. If the road goes through the middle of the lot, there will be tree removal and farm
65 house removal.
66 Kopitzke stated this could be done without 6 lots.
67 Parker agreed.
68 Patten suggested less lots, and subdivide the large one in the future. Hardship is created by the applicant.
69 Parker stated fewer lots would reduce number of trees being removed as well.
70 Sonnen cited road construction costs.
71 Sykora asked why is our cul de sac length set at this?
72 Kopitzke stated that length was defined by frontage and number of lots allowed.
73 Hale stated she has mixed feelings as the plat design is good, and saving the existing farmhouse is nice.
74 Sykora stated he likes the design. Tough to see hardship, but not completely opposed.
75 Hale stated that many of these properties were left to family and divided without regard to future division.
76 There are many long narrow lots.
77 Parker stated that someone bought it with obvious limitations, so what is our obligation? They need to be
78 aware of ordinances.
79 **Motion/Second Kopitzke/Sykora to recommend approval of preliminary plat with conditions 1-10 on**
80 **report.**
81 Kirmis recommended the planning commission take separate actions to provide clarity; one for the variance,
82 one for the plat.
83 Patten noted that condition #1 is the variance.
84 Moorse stated that two applications are required, one for the Preliminary Plat and one for the Variance. The
85 criteria for making decision are different for each.
86 Discussion was held regarding the order in which the applications should be considered. It was suggested
87 that the commission discuss and vote on the preliminary plat approval and then the variance approval.
88 **Motion withdrawn**
89 After further discussion on order, the commission decided to address the variance first and then the plat
90 map.
91 Bowman asked about street ROW? (runs to property line on south)
92 **Motion/Second Sykora/Hale to recommend approval of variance with conditions and findings.**
93 Hale stated she has mixed feelings on the variance, but good job was done at preserving farmstead, trees and
94 groundwater.
95 Sykora agreed.
96 Doherty stated she is opposed to variance because the shape of the property is man-made, out of sequence
97 in time.
98 Parker agreed. They could have plan with less lots and no variance. Stub street adds no value and should not
99 be included in this.
100 Dawson agrees, variance is only to allow a lot. Shorten cul de sac. Adding a lot is not a hardship.
101 **Motion vote: Patten nay, Doherty nay, Bowman nay, Sykora aye, Dawson nay, Parker nay, Hale aye,**
102 **Kopitzke nay. Motion fails 2-6.**
103
104 **Motion/Second Parker/Doherty to recommend denial of plat based on variance denial.**
105 Doherty stated this is a good plat if it had 5 lots with no variance.
106 Hale appreciates saving the farmstead and natural features. Recommend they stay within cul de sac length.
107 Kirmis recommend approval with lots 5-6 combined, and cul de sac not exceed allowed length.
108 Patten likes design with lots 5-6 combined.
109 **Motion withdrawn**

110
111 **Motion/Second Patten/Bowman to approve plat with exception of Condition 1 (variance), renumber,**
112 **suggest combining lots 5 and 6, keep road where it is at 1320' of length or less.**
113 **Parker friendly amendment “do not include stub” (accepted)**
114 **Bowman friendly amendment “reconfigure lots 4, 5, 6 to be two lots” (accepted)**
115 **Roll call: all aye, passed 8-0.**
116

117 B. Charles Cudd Variance Application for the 10-Acre Property with PID # 17.028.20.43.0002, Located
118 West of the Lot at 2760 Nybeck Avenue.

119 Kopitzke opened public hearing at 8:25pm

120 Moose provided a summary: The variance application is to enable an existing 10-acre lot with PID#
121 17.028.20.43.0002, located west of 2760 Nybeck Avenue, to be a buildable lot without frontage on a
122 public road. Sections 12- 84 and 12-132 of the City Code provide that all lots shall have direct access
123 from a public road and all lots shall have a minimum of 300 feet of frontage on a public road. The subject
124 parcel was created in 1978 when it was subdivided away from the 10-acres of property fronting on 30th
125 Street. In 2004, the Three Sisters Springs subdivision process created a private driveway easement to
126 provide access to this parcel from a public street (Nybeck).

127 Klare Bachman 2760 Nybeck Ave S., owners of land with the easement in question. Thank you to
128 Bowman for coming out to see site. 3 main issues for them are: personal liability, view of driveway from
129 their living room, and the environmentally sensitive 10 acres with steep topography, dam and wetlands.

130 Joe Bush, developer, stated they would have no personal liability. The view can be addressed with
131 plantings. Environmental aspects have been discussed with VBWD (watershed district) staff. With

132 conditions met, the lot is buildable. Dam maintenance would be responsibility of landowner.

133 Bachman stated the view is bad with the buckthorn removed. Landscaping could help. Does building area
134 meet requirements? (yes) If failure of dam would home be above flood? (yes, DNR has inspected) Proposed
135 driveway slope? (within allowable percentage)

136 Bachman stated this lot was bought with limitations.

137 **Motion/Second Patten/Sykora to close public hearing. Roll call: all aye, passed 8-0.**

138 Public hearing closed at 8:46pm
139

140 Kopitzke stated that with the easement, there is a legal right to build driveway. The two parties should work
141 together

142 Patten asked if the land was purchased knowing easement was there? (yes)

143 Bowman hiked the property. His concerns: dam is not currently in compliance; at two locations along
144 driveway the slope is steep; house site is at bottom of bowl that appears to be wetland; neighbor property is
145 compliant, if driveway is built it cuts that lot in half.

146 Parker agreed that in many areas the slope is steep. Has the septic area been tested? How big is buildable
147 area? Sensitive land here.

148 Sykora stated what we have here is for variance for road frontage.

149 Kopitzke stated that a driveway would be a different variance. Main question here is frontage. Was this the
150 intent of the easement?

151 Hale stated the easement already exists. Intent was for it to be buildable if it meets city codes.

152 Bowman if purpose is not to build then what is the purpose? If other variances are needed should they come
153 at the same time?

154 Parker asked why are there conditions if we're just looking at easement?

155 Moose stated that issues of buildability need to be considered, but main question is frontage requirement.
156 Lot has to meet all other requirements.

157 Hale applicant has to realize lot has to meet all of the codes for building.

158 Parker we have to be clear that this does not mean it is buildable.

159 Sykora stated it is not clear in easement where driveway should be located.

160 Patten stated that if the council at the time intended lot would be buildable, it would be dependent on
161 ordinances at the time.

- 162 Hale stated that this provides access to parcel.
163 Patten asked about condition of dam?
164 Moose stated that the watershed district said owners have to maintain as per DNR.
165 Dawson asked if a driveway can be built?
166 Moose replied that it will be challenge, there may be up to 18% slopes.
167 Bush stated that there are other driveways in the area that are similar.
168 **Motion/Second Kopitzke/Hale to recommend approval of variance requiring frontage with findings**
169 **1-7, not any of the conditions. Approval does not mean this is a buildable lot, approval does not mean**
170 **a driveway can be built across easement.**
171 Kopitzke stated the 300' frontage requirement is for safety.
172 **Roll call vote: Patten aye, Doherty nay, Bowman nay, Sykora aye, Dawson nay, Parker nay, Hale aye,**
173 **Kopitzke aye; 4-4, motion fails.**
174
175
176 C. Ordinance Amendment, Ordinance 01-2021, regarding screening requirements for accessory buildings
177 on lakefront and streamfront lots
178 Chair Kopitzke opened the public hearing at 9:17pm.
179 No public comments were received
180 **Motion/Second Parker/Bowman to close public hearing. Roll call: all aye, passed 8-0.**
181 Public hearing closed at 9:20pm
182
183 Hale asked about the language regarding tree species and if it should be more specific?
184 Sykora feels it's specific enough. 80% requirement in 5 years may tend toward shrubs rather than trees.
185 **Motion/Second Hale/Sykora to recommend approval of Ordinance 01-2021, an ordinance**
186 **amendment regarding screening requirements for accessory buildings on lakefront and**
187 **streamfront lots. Roll call: all aye, passed 8-0.**
188
189
190 **7. NEW BUSINESS –**
191 A. 2021 Meeting Schedule
192 July meeting will be held in June. September moved to August due to holidays.
193
194 **8. OLD BUSINESS –**
195 A. John & Kim Ziton Variance application at 4102 River Rd
196 Administrator Moose provided a summary: the applicants revised the house proposal to redesign the shape
197 of the house and the floor plan to enable the house to be located so that the house footprint itself would not
198 encroach into the bluff area beyond the flat area at the rear of the existing house. The rear of the new house
199 would extend to the back of the existing patio, which is about thirteen feet behind the existing house.
200 This new revised plan does involve disturbance of the sloped area behind the house for the purpose
201 of providing an area that slopes away from the house to enable proper drainage of the run-off that
202 comes down from the bluff. The City Engineer has recommended that the width of the area sloping
203 away from the house should be a minimum of 6 feet. A retaining wall is also needed at the western
204 edge of this slope away from the house. It is estimated that the disturbance would extend
205 approximately 10 feet into the sloped area.
206 Because most of the land surrounding the existing house has a slope greater than 12%, an
207 expansion of the house footprint beyond the existing house footprint requires a variance to the
208 ordinance prohibiting the disturbance of slopes of 12% or greater.
209
210 Hale asked if other properties on River Rd have gone into the slope in back. What is the implication for water
211 run off?
212 Administrator Moose stated the Holz & Gasser properties disturbed slopes over 12%.
213 Bowman stated that here we are disturbing more – 10' rather than 3 or 4.

214 Doherty stated that in those examples, they originally requested to go back further.
215 Doherty asked if we got any letters of support for this variance?
216 Moose replied no, concerns were front yard setback early in the process.
217 Parker asked if they no longer need front variance? (no, they are meeting setback requirement).
218 Ziton stated they completely redesigned.
219 Kopitzke feels they made changes needed to meet our recommendation.
220

221 **Motion/Second Doherty/Sykora to recommend approval of the variance with finding that is similar to**
222 **others in neighborhood, along with findings and conditions below.**

223 **Findings**

- 224 1. The subject property is located in the Rural Residential zone and in the Lower St. Croix River
225 Bluffland and Shoreland Management Overlay District, as are all surrounding properties.
- 226 2. The property is 4.6 acres in size and is 300 feet in width.
- 227 3. The property contains an existing house and detached garage.
- 228 4. The existing house meets the required setbacks to River Road and to the St. Croix River.
- 229 5. The new house is proposed to be located farther west than the existing house, which
230 would involve substantial disturbance of the sloped area to the rear of the house.
- 231 6. The proposed house meets the required 200 foot setback from the ordinary high water
232 line of the St.Croix River and the required 105 foot setback from the centerline of River
233 Road
- 234 7. The proposed house will disturb areas with a slope of 12% or greater.
- 235 8. The construction of the proposed house will require the removal of three trees northeast
236 of the existing house and may require the removal of two large trees in the front yard of
237 the property.
- 238 9. The larger house will increase the amount of impervious surface on the site, which will
239 increase the amount of stormwater runoff and will necessitate a method of directing and
240 managing the run-off from the house and the run-off from the bluff at the rear of the
241 house.
- 242 10. Because there will be limited screening of the house from the River, it is important that
243 the color of the house be an earth tone that minimizes the visual impact of the house
244 from the River.

245 **Conditions**

- 246 1. The house shall be constructed according to the revised plans submitted, except as the plans
247 may be revised by the Council or as revisions of plans may be approved by the Council.
- 248 2. All grading, drainage and erosion control plans shall be subject to the review and approval of
249 the City Engineer
- 250 3. Any retaining wall designs shall be subject to the review and approval of the City Engineer
- 251 4. The City Engineer's specifications and recommendations for all work shall be met for the
252 duration of the permit.
- 253 5. The grading shall be constructed according to plans approved by the City Engineer. Silt fences
254 or other types of erosion control shall be properly installed prior to construction; and shall be
255 maintained in good condition until the construction is complete. All disturbed soils shall be
256 restored as soon as possible.
- 257 6. The size and type of equipment used in the steep slope area shall be chosen to minimize the
258 disturbance of the steep slope.
- 259 7. The house color shall be earth tone to limit its visual impact from the River.
- 260 8. Existing vegetative screening shall be maintained, with the exception of the two large trees in
261 front of the existing house that may need to be removed, and three trees northeast of the existing
262 house that need to be removed for grading related to the driveway to the new garage. The trees
263 required to be removed for the construction of the new house shall be replaced based on a

264 replacement plan subject to the review and approval of the City Engineer's landscape specialist,
265 the Washington Conservation District and the City Administrator.
266 Parker stated he appreciates the owners working with us to address concerns.
267 Patten stated that for the first variance, all the neighbors had concerns and said no. These are good
268 compromises, but haven't heard from neighbors.
269 Kopitzke stated original comments from neighbors were regarding the house being closer to the road.
270 Hale agreed. Asked if in the future is there way to continue a public hearing?
271 Kopitzke stated that we could have another, but it is not required. There is a long timeline for publishing
272 requirements.
273 **Roll call: Passed 7-1 (Patten nay)**

274
275
276 B. Update on City Council actions
277 Council member Wroblewski provided a summary of the January City Council meeting.
278

279
280 **9. ADJOURN**

281 **Motion/Second Patten/Hale To adjourn. Roll call: all aye, Passed 8-0.**
282

283 Meeting adjourned at 10:05 pm.
284

285
286 Respectfully submitted by:

287
288 JY

289 Julie Yoho, City Clerk
290

291
292 To be approved on March 1, 2021 as (check one): Presented: X or Amended: _____
293
294