

**Cannon Falls Planning Commission  
Regular Meeting  
City Council Chambers  
July 10, 2023**

**COMMISSIONERS PRESENT:** Chair Steve Gesme, Commissioners Bruce Hemmah, Jay Behnken, and Diane Johnson

**COMMISSIONERS ABSENT:** All members were in attendance

**OTHERS PRESENT:** Neal Jensen, City Administrator; Shelley Ryan, City Attorney; Bill Angerman, City Engineer; Zach Logelin, License and Permit Technician

**1. CALL TO ORDER**

Chair Gesme called the meeting to order at 6:30 p.m.

**2. ROLL CALL**

Roll call was conducted. Chair Gesme and Commissioners Hemmah, Behnken, and Johnson were in attendance.

**3. APPROVAL OF AGENDA**

A motion was made by Commissioner Johnson, seconded by Commissioner Hemmah and unanimously carried, to approve the agenda as presented.

**4. APPROVAL OF MINUTES: February 13, 2023**

A motion was made by Commissioner Behnken, seconded by Commissioner Johnson and unanimously carried, to approve the meeting minutes as drafted.

**5. PUBLIC INPUT**

There was no public input regarding items not listed on the agenda.

**6. PUBLIC HEARINGS**

**A. Ed Rymer, Cannon Falls Mall Conditional Use Permit.**

City Administrator Jensen provided background information. He referenced past adoption of a City Code amendment to allow indoor storage as a conditional use. He reviewed Mr. Rymer's CUP application to allow 126 climate-controlled storage units.

Chair Gesme opened the Public Hearing for this item at 6:32 p.m. No one spoke during the Public Hearing. Chair Gesme closed the Public Hearing at 6:33 p.m.

**B. Greg Jablonske, Towering Bluffs Planned Unit Development.**

City Attorney Ryan provided background information. She referenced past discussion by the Planning Commission, noting that approval of the preliminary plat and rezoning was recommended.

City Attorney Ryan reviewed the PUD approval process, including a Public Hearing requirement. She commented that additional information has been submitted to support the final plat. She noted that the PUD, the final plat, and the development agreement will be reviewed by the City Council during a future Council meeting.

Chair Gesme opened the Public Hearing for this item at 6:36 p.m. No one spoke during the Public Hearing. Chair Gesme closed the Public Hearing at 6:37 p.m.

**C. Daniel Molenaar, Government Lots 1, 2, 5 and 6 Preliminary Plat and Variances.**

City Attorney Ryan provided background information and summarized the application to consider a preliminary plat and two variances. She discussed the preliminary plat to develop four lots, two for residential use, noting that the current zoning is Urban Reserve. She referenced a report detailing the application, the existing conditions and property size, the applicable subdivision rules and regulations, and the variance requests.

Chair Gesme opened the Public Hearing for this item at 6:44 p.m.

Jake Winchell, Cannon Falls, introduced himself as representing the applicant group and provided additional background information. He clarified that neighbors would purchase a portion of the lots, to be combined with their properties. He noted that the remaining land would be used to create two approximately 4-acre lots to be used as residential lots, with one single family home on each. He described the property as unique and noted that housing has been identified as a priority in Cannon Falls. He provided rationale for the preliminary plat and variance requests. He discussed access to the properties via what is commonly known as Fifth Street North.

David Alvstad, 1701 Fifth Street North, Cannon Falls, stated that his property would be directly impacted by the proposed development. He expressed concerns about increased traffic along Fifth Street North. He stated his understanding that the City easement ended at Pumphouse #3, adding that the so-called private road that extends out to Highway 20 is not really private. He asked whether access to the property from Highway 20 has been addressed with MnDOT, noting that this would be the shortest distance to the proposed development.

City Attorney Ryan stated that insufficient information was provided by the applicant to address these types of concerns and determine potential solutions.

Commissioner Hemmah asked Mr. Alvstad to clarify his position. Mr. Alvstad pointed out the properties under discussion on a map and further discussed access to the area.

Leon Hanson, Cannon Falls, stated that he owns one of the neighboring properties. He referenced a letter from Dr. Karl Molenaar.

No one else spoke during the Public Hearing. Chair Gesme closed the Public Hearing at 6:58 p.m.

## **7. DISCUSSION ITEMS**

### **A. Resolution 2023-02 Conditional Use Permit for PID #527193000.**

This item was discussed following the Public Hearing (Item 6A).

A motion was made by Commissioner Johnson, seconded by Chair Gesme, to adopt Resolution 2023-02, recommending that the City Council approve the requested Conditional Use Permit to allow indoor storage units at Cannon Falls Mall. A vote was conducted, and the motion carried unanimously.

### **B. Resolution 2023-03 Planned Unit Development for PID #525400014, PID #525400016, PID #525400013, PID #525400015, and PID #525400010.**

This item was discussed following the Public Hearing (Item 6B).

Commissioner Hemmah asked about engineering issues. City Engineer Angerman referenced the final plans that have been developed by the applicant's engineering team. He indicated that most of the items have been addressed, with final approvals needed from Goodhue County and the Cannon Falls City Council. Stormwater management was discussed, and it was noted that issues will be addressed during a future phase of the project.

Commissioner Behnken referenced the preliminary plat and asked whether the most recent plans reflect any substantial changes in the design or layout. City Engineer Angerman indicated that there have been no substantial changes. He referenced a proposed parkland dedication in a future phase of the project, which will be reviewed by the City Council. Commissioner Behnken relayed feedback from neighbors in the area. He referenced a utility easement and stated his understanding that there will be no street access from Limestone Road or High Point Road to the development.

City Attorney Ryan suggested that the Planning Commission consider a conditional approval of the PUD, with final approval by the City Council based on the final plat and the developer agreement. She noted that a PUD agreement will be drafted for later consideration.

A motion was made by Commissioner Behnken, seconded by Commissioner Johnson, to adopt Resolution 2023-03 as drafted. A vote was conducted, and the motion carried unanimously.

### **C. Resolution 2023-04 Preliminary Plat and Variances for PID #525100290, PID #525100300, and PID #525100130.**

This item was discussed following the Public Hearing (Item 6C).

Commissioner Hemmah requested clarification of the number of variances that are being requested, and it was noted that two variances are being requested. Chair Gesme asked City Attorney Ryan to provide additional information regarding the variance requests.

City Attorney Ryan discussed the requirement for lot frontage on a public street. She provided a definition of a public street and discussed the current easement. She commented that variances to subdivision requirements can be granted if allowed specifically by the City Code and only under the criteria established by the City Code. She stated that the Cannon Falls City Code currently does not allow variances to subdivision requirements.

City Attorney Ryan also referenced an inconsistency relating to the number of residential uses per the zoning classification for this property. She also noted that Urban Reserve zoning is guided by the Comprehensive Plan. She indicated that a Comprehensive Plan amendment and rezoning would be required.

Commissioner Johnson referenced past rezoning activities. City Attorney Ryan discussed the purpose of the Urban Reserve zoning classification and reviewed the rezoning process. She also reviewed the Planned Unit Development process.

City Attorney Ryan reiterated the process of granting variances to subdivision requirements and clarified that the Planning Commission does not have the legal authority to recommend approval of the variance request relating to the public street issue. She stated that the applicant could offer to pay the cost of extending the street. She noted that the zoning issue would need to be resolved in terms of residential use component.

Jake Winchell commented that the applicant group has been working on the proposal for approximately two years. He stated that zoning was never an issue in these discussions and was only recently raised after the application was submitted. He stated that the former Zoning Administrator referred to Urban Reserve as a "holding zone" and indicated that the property could be rezoned to the R-2 classification. Mr. Winchell also requested clarification of the legal description of Fifth Street North, if it is not a public street. City Attorney Ryan described Fifth Street North as a private easement, which allows the City to use an unimproved private driveway.

Leon Hanson summarized a past discussion with the City Engineer. He commented that variances are frequently granted and quoted language from State statutes relating to practical difficulty. He noted that the applicant group has invested a significant amount of time and money into planning this project.

Chair Gesme commented regarding the potential future impacts of allowing a home to be built without access to a public street. Mr. Winchell commented with regard to land-locked property.

Maintenance of the existing private road was discussed. Mr. Winchell indicated that the City currently maintains this road, noting that neighboring property owners have offered to maintain the road.

Mr. Alvstad stated that he does not oppose the proposed development and reiterated his suggestion to consider an alternate access route.

Chair Gesme inquired regarding the options for Planning Commission action at this time. City Attorney Ryan reviewed the options:

- 1) Recommend denial of the preliminary plat and variance requests, based on the legal issues.
- 2) Recommend some type of conditional approval.
- 3) Recommend approval of the preliminary plat and variance requests as submitted.

Commissioner Behnken asked about potential solutions to address the legal issues and allow the proposal to move forward.

City Attorney Ryan further commented regarding the public street issue and referenced applicable State statutes. She noted that the applicant has thus far not indicated an interest in putting in a public street for access to the subdivision.

City Attorney Ryan then referenced the zoning component and reviewed the process to rezone the property, including an amendment to the Comprehensive Plan. She commented that no analysis has been conducted in this regard. City Engineer Angerman provided additional information and summarized a meeting that was conducted with the applicants approximately a year ago, during which various options were discussed to resolve the public right-of-way issue.

Commissioner Behnken asked whether the proposal could move forward if the public street issue is resolved. City Attorney Ryan indicated that if the public street issue is resolved, no subdivision variance would be required.

Commissioner Behnken asked whether the applicants have discussed installing a public street. Mr. Winchell indicated that this would be a deal breaker.

Mr. Winchell commented that Fifth Street North has been considered to be a public road and asked what it would take to officially declare it to be a public right-of-way. He stated that there are a few gravel roads within the City limits and asked about a legal precedent for a road that has been used semi-publicly.

City Attorney Ryan stated that it would be the City's choice to dedicate a public roadway and the developer's responsibility to pay for street improvements. City Engineer Angerman added that the first step would be for the property owner (Mr. Alvstad) and the City to agree to plat the public roadway. It was noted that the question of allowing a gravel road would need to be explored.

Mr. Winchell reviewed what the applicants are willing to pay for, including utility extensions and paved driveways.

Commissioner Behnken summarized the additional discussion.

Commissioner Johnson asked whether some of the parcels could still be sold to neighboring property owners. City Attorney Ryan noted that all of the lots under discussion have been included on the proposed preliminary plat, adding that this could potentially be considered.

A motion was made by Chair Gesme to adopt Resolution 2023-04, denying the preliminary plat and variances, based on information provided by the City Attorney. The motion was seconded by Commissioner Johnson. Commissioner Behnken suggested further discussion between City staff and the applicants with regard to potential solutions to address the issues. Following discussion a vote was conducted, and the motion carried unanimously.

## **8. ADJOURN**

A motion was made by Commissioner Johnson, seconded by Commissioner Hemmah and unanimously carried, to adjourn the meeting. The meeting adjourned at 7:34 p.m.