

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, August 15, 2017 – 7:00 p.m.
City Hall Chambers - 8150 Barbara Avenue

Chair Maggi called the Planning Commission meeting to order at 7:00 p.m.

Commissioners Present: Tony Scales
Armando Lissarrague
Dennis Wippermann
Jonathan Weber
Luke Therrien
Joan Robertson
Elizabeth Niemioja
Annette Maggi

Commissioners Absent: Pat Simon (excused)

Others Present: Tom Link, Community Development Director
Allan Hunting, City Planner
Heather Botten, Associate Planner

APPROVAL OF MINUTES

The August 2, 2017 Planning Commission minutes were approved as submitted.

WIDSETH SMITH NOLTING (RIVER HEIGHTS VINEYARD CHURCH) - CASE NO. 17-32V

Reading of Notice

Commissioner Robertson read the public hearing notice to consider the request for a variance from the front yard setbacks to allow a building addition 50 feet from the front property line whereas 75 feet is required, for the property located at 6070 Cahill Avenue. 13 notices were mailed.

Presentation of Request

Allan Hunting, City Planner, explained the request as detailed in the report. He advised that the applicant is proposing to construct a 10,600 square foot addition to the existing church. The addition would be added to the west side of the church, and would be designed as the new sanctuary; the existing building would be converted to cafeteria/dining hall. The setback in the P, Public/Institutional district is 75 feet from the property line along Cahill Avenue whereas the applicant is proposing a 50-foot setback. The request is for a variance from front yard setback. If the variance is successful they must come back for a major site plan approval. The property is confined by a wide utility easement which limits the location of any building. A building expansion to the west is about the only option. The proposed expansion would still be setback further from Cahill than most other structures in the area. Staff recommends approval of the request with the conditions listed in the report.

Commissioner Robertson asked for clarification regarding the existing parking stalls along Cahill Avenue that appeared to be less than 75 feet from the property line.

Mr. Hunting advised that parking has a 10-foot setback; the 75-foot setback applies only to structures.

Commissioner Wippermann asked what the private utility easement was for and whether it was active.

Craig Leibold replied it was an active Excel gas line.

Opening of Public Hearing

Craig Leibold, 12990 Exley Avenue, Apple Valley, advised he was available to answer any questions.

Chair Maggi asked the applicant if he read and understood the report.

Mr. Leibold replied in the affirmative.

Commissioner Robertson asked the applicants if they had considered redesigning the addition so as not to encroach into the setback.

Mr. Leibold explained that the plan has been all along for the sanctuary to be built as proposed; to change direction now would have wasted and isolated the fellowship hall. He advised that the original building was a sanctuary, classrooms were added in the mid-70's, they developed a plan in the last couple years to build a fellowship hall, and now the sanctuary.

Commissioner Lissarrague asked Mr. Leibold how he was affiliated with the church.

Mr. Leibold replied that he was the general contractor.

Chair Maggi closed the public hearing.

Planning Commission Discussion

Commissioner Lissarrague stated that he supported the request.

Planning Commission Recommendation

Motion by Commissioner Weber, second by Commissioner Lissarrague, to approve the request the request for a variance from the front yard setback to allow a building addition 50 feet from the front property line, whereas 75 feet is required, for the property located at 6070 Cahill Avenue, with the conditions and practical difficulty as listed.

Motion carried (8/0). This item goes to the City Council on August 28, 2017.

CITY OF INVER GROVE HEIGHTS – (TRANSIENT LODGING) – CASE NO. 17-33ZA

Reading of Notice

Commissioner Scales read the public hearing notice to consider a request for an ordinance amendment relating to the regulation or prohibition of short-term rentals for residential use. No notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that services such as VRBO and Airbnb are services that individuals may use to arrange short-term rental of someone's house, apartment, or room for one night or more. This creates a unique situation by placing short-term vacationers in a residential district. The City Council has discussed short-term rentals at two work sessions and they have directed staff to prohibit transient lodging (another term for short-term rental) of residential homes for less than 30 days. Short-term rentals provide an alternative to a hotel stay but can disrupt the residential nature of a neighborhood and create land use conflicts, such as increased traffic, high occupant turnover, large gatherings of people who do not own or have an investment in the neighborhood, and cause public safety

complaints. The City's Police Department has received several complaints regarding a short-term rental property in town that includes excessive noise, underage drinking, overoccupancy, illegal parking, disruption to neighborhood, running through neighboring properties, and calls to other agencies for assistance in monitoring the parties going on at this house. The proposed ordinance states that no one shall let, lease, license, or agree to allow the use of occupancy of a rental dwelling unit, or portion thereof, for less than 30 days. There are a few other minor changes to the ordinance, including removal of bed and breakfast from the land use table and some definition amendments. City Council and the Police Chief support the prohibition of residents renting their homes for less than 30 days, but the proposed ordinance does not stop anyone from renting 31 days or more. The Planning Commission is being asked to make a recommendation to City Council.

Commissioner Scales asked if this was a general problem in the City, or were there issues with specific properties.

Ms. Botten replied that the City was experiencing problems with one specific property.

Commissioner Lissarrague asked if there were any guidelines regulating short-term rental properties to ensure they remained in good condition.

Ms. Botten replied that the City recently adopted a rental ordinance; however, it does not address short-term rental units.

Tom Link, Community Development Director, advised that the City Council adopted a rental license ordinance last October. There are two parts to the ordinance, including requiring a license and compliance with certain standard requirements. Short-term rentals do not fit into that ordinance so City Council is considering it separately.

Commissioner Robertson asked if there were additional properties with concerns or if the proposed ordinance was meant to prevent other properties from becoming problematic.

Ms. Botten replied that the City has only received complaints on one property; however, the concerns with the disruption to residential neighborhoods applies to all properties.

Mr. Link advised that short-term rentals are an issue that most cities are currently wrestling with. Minneapolis and St. Paul have been undergoing extensive studies of short-term rental, and City Council has looked at what some other communities have been doing. Short-term rentals will likely be in high demand for the upcoming Super Bowl.

Commissioner Roberson was indecisive on this issue because of the economic benefits the City could gain by allowing short-term rentals.

Mr. Link advised that there were good arguments on both sides of the issue. Short term rentals are popular and becoming even more so. The flip side is if you live next door to one it can be uncomfortable because of the public safety issues mentioned earlier, in addition to having different people staying next door every weekend with different hours and different activities. City Council has discussed both sides of the issue.

Commissioner Weber suggested that rather than prohibiting short-term rentals completely, the City incorporate certain regulations such as requiring a license/permit, or limiting frequency or duration.

Ms. Botten summarized what some other communities have done in regard to short-term rentals. She advised that the City of Duluth allows short-term rentals but requires an interim use permit, a

minimum of a two-night stay and a maximum of 29 nights, and only 60 are allowed in the entire city. The City of Stillwater categorizes short-term rentals into different types, with Type C being the most similar to what we are discussing tonight. They allow 15 licenses in the city, require a conditional use permit and a city rental license, determine the number of guests allowed based on number of bedrooms, and make sure they comply with parking requirements. The City of Prior Lake limits the number of times a month a house can be rented and regulates the number of occupants based on the size of the home. If Planning Commission is mainly concerned about wanting to allow homes to be rented during the Super Bowl, the proposed short-term rental ordinance would still work by having renters sign a lease for a month and then not rent it to anyone else after that.

Chair Maggi asked if the neighbors would be notified if someone wanted to do a long or short-term rental on their property.

Ms. Botten replied they would not. She advised that a rental property would require a license from the City, but there would be no notification to neighbors.

Chair Maggi asked if the cities of Duluth, Stillwater, or Prior Lake required notification.

Ms. Botten replied that interim use and conditional use permits (as required in Duluth and Stillwater) require notification to the neighbors.

Commissioner Wippermann asked what the penalty would be for violating the proposed ordinance.

Ms. Botten believed that violations would be a misdemeanor. Currently if there is a violation the police cannot go after the homeowner as they are not there at the time the violation is occurring. The proposed ordinance; however, allows the police department to go after the homeowner if they are in violation.

Commissioner Scales stated that people will likely rent out for the Super Bowl whether they are allowed to or not. Also, the proposed ordinance would be difficult to enforce.

Commissioner Robertson concurred with the idea of applying certain stipulations rather than blanket prohibiting short-term rentals. She stated Airbnb, and similar rental options, could be valuable to a community, and there will be many opportunities that might open up for our City, especially with the new Vikings facility being so near. Rather than prohibiting all short-term rentals because of one problem neighborhood, she would prefer they implemented certain criteria and guidelines.

Commissioner Lissarrague asked if the City was trying to be proactive by implementing the proposed ordinance and trying to prevent additional problem properties from occurring.

Ms. Botten replied in the affirmative, stating currently the ordinance does not prohibit anyone from having a large party.

Commissioner Niemioja stated she sees a distinction between a situation where a homeowner renting out a room is residing in the home versus a property owner who is allowing the home to be rented out through Airbnb and is not there. There is also a distinction between a property being vacated and rented out every weekend versus one being rented out on only a few occasions.

Ms. Botten advised that the City of Stillwater has three different types of rentals and different requirements for someone having an unhosted short-term rental versus someone living in the house and renting out one room.

Commissioner Niemioja stated there seemed to be some nuance here and it would be tough to prohibit all renting situations.

Commissioner Weber stated he would prefer not to prohibit people from renting their homes, especially with the Vikings having spring training here. He would rather see an amendment to the licensing ordinance for short-term rentals with limitations on duration and frequency.

Commissioner Lissarrague asked for clarification that renting your home for 31 days would be allowable under the proposed ordinance.

Ms. Botten replied in the affirmative, stating they would be required to obtain a rental license though.

Commissioner Lissarrague asked if someone could stay for only three nights as long as the owner charged for 30 days and obtained a rental license.

Ms. Botten replied in the affirmative.

Commissioner Weber commented that that seemed like such a go-around.

Opening of Public Hearing

Pam Glenn, 6440 Ballantine Court, stated she recently sold her home and will be moving into a townhome in Inver Grove Heights. She has rented out her home intermittently for five years using Airbnb and has an issue with prohibiting short-term rentals because of one situation. She stated Airbnb is a well-regulated organization and she has had nothing but positive experiences with it. Airbnb teaches you to be thoughtful to ensure there is ample parking and owners are not having too many guests. In her situation, she stays in the home while the renters are there; however, not everyone does it that way. She stated there are already laws in place to address wild parties, parking issues, etc. and the City should be enforcing those rather than adopting this ordinance. She feels it is her right to use the space she owns as she chooses as long as she does it lawfully and responsibly. She questioned how they would regulate this as it would have to address many different situations other than the Vikings facility or the Super Bowl, such as aging parents or adult children needing to rent temporarily. In her experience renters have loved Inver Grove Heights and bring money to the community. The proceeds from renting her home out provides her with extra income to help upkeep her property. If regulations are adopted she hopes they are flexible.

Commissioner Robertson was glad to hear that organizations like Airbnb already have their own strict criteria and that the enforcement responsibility was not all on the City. She questioned why they would ban all short-term rentals because of a few problem properties.

Commissioner Weber advised Ms. Glenn that some townhome associations restrict rental of your property.

Ms. Glenn replied that it is allowed in her townhome association.

Nancy Pone, 8336 River Road, advised that she has health problems with asthma and indoor allergies and is trying to figure out if there are things she can do to better tolerate the winters here. One of the things they did was replace the flooring and they upgraded it in case they wanted to rent it out short-term and leave for the winter but still keep their home. They also put on a deck with a hot tub to make it more appealing to renters. If the City puts restrictions on renting they are taking away some flexibility of homeowners to keep their homes when situations like this arise. She advised that she has six children and therefore Airbnb has been valuable to them when they

travel as you cannot always be guaranteed to get multiple adjoining hotel rooms. She advised that even requiring a two-week stay would be restrictive as people rarely take two-week vacations. She advised there are many things the short-term rental organizations do to try to enable homeowners to rent to trustworthy people. Having a two-night minimum may help weed out undesirables, but making all living situations unfeasible because of one problem property seems like overkill.

Chair Maggi closed the public hearing.

Planning Commission Discussion

Chair Maggi stated the quandary was that many homeowners are responsibly renting out their homes; however, it would be uncomfortable as a homeowner if the neighbors were routinely renting out their home. She was not necessarily in favor of completely prohibiting it but thinks there should be some sort of neighbor notice and application.

Commissioner Robertson agreed, stating perhaps they should research the requirements other cities and places like Airbnb have.

Chair Maggi stated the City is trying to protect its citizens by creating criteria in case people renting their homes out do not go through a legitimate organization such as Airbnb.

Commissioner Robertson stated that researching known organizations would give the City a sense of what the criteria should be.

Commissioner Lissarrague stated that he supported the proposed ordinance. While he does not like to see more restrictions than necessary, this would protect new buyers moving into residential neighborhoods from having homes rented out on a regular basis in their neighborhood. Anyone wanting to rent their home short-term perhaps should not live in that neighborhood.

Commissioner Niemioja responded that while she respects that position, the City has the right to limit what goes on in a house (i.e. certain businesses cannot be put in a home). It is a complicated issue because the use of this is what homes are for (i.e. sleeping, eating, and shelter). She believes there is some wiggle room, and that the ordinance as written is overbroad and does not recognize the nuance of use. She noted that someone driving on Highway 55 from the airport to Rochester would not find any hotels along the way through our city. Also, there are many events that will be occurring in the cities of Minneapolis and St. Paul in which people may want to rent out their homes.

Chair Maggi asked Commissioner Niemioja what she would consider wiggle room.

Commissioner Niemioja replied perhaps a homeowner living in the residence and occasionally renting out their property versus someone living offsite and acting as a landlord.

Commissioner Scales stated that hearing the two residents speak has swayed his opinion and he thinks they could put together requirements that would give the City the ability to intervene should a situation get out of hand. He does not want to be the person who limits people from using their property in a reasonable manner.

Chair Maggi stated the issue seems to be that the rentals are being done on property that is zoned residential.

Commissioner Robertson thanked Commissioner Scales for confirming the value of public hearings and hearing perceptions and ideas from people that we had not thought of. She commended the two residents who spoke and brought forward nuances Commissioners had not thought of.

Commissioner Lissarrague asked what the City's take was on a situation where the owner is present all of the time while offering short-term rental.

Ms. Botten replied that at this point the direction given by City Council is to prohibit short-term rentals, so that is what is before the Planning Commission tonight. If the Commission does not support the proposed ordinance they could make a recommendation that they do not support the prohibition of transient lodging. If they decide to, City Council has the option to change their mind and go back and try to allow short-term rentals with conditions or performance standards. At this point; however, she does not believe anyone has enough information in front of them to determine what requirements they would be comfortable with.

Commissioner Scales asked for clarification that staff was not looking for negotiation but rather for the Planning Commission to approve or deny the proposed ordinance prohibiting transient lodging.

Ms. Botten replied in the affirmative. She advised that if City Council decides to allow short-term rentals with performance standards a lot more review would likely be done.

Chair Maggi stated from the comments made tonight it seemed like most of the Commissioners favored a compromise position rather than completely prohibiting transient lodging.

Commissioner Wippermann stated he supported the proposed ordinance, and that he would be concerned if his neighbors started renting out rooms in his residential neighborhood.

Ms. Botten stated her research has indicated that Airbnb protects the homeowners but not necessarily the residents around them. The proposed ordinance is meant to protect the residents in single-family neighborhoods.

Commissioner Weber stated the neighbors are already protected by the City's current ordinances that address noise violations, etc.

Chair Maggi asked for clarification that partygoers could be cited for noise violations, but not the absent homeowner.

Ms. Botten replied in the affirmative, stating the parties are large with hundreds in attendance.

Commissioner Weber disagreed with prohibiting short-term rentals for all residents because of one isolated incident.

Chair Maggi noted that if you live next to the one isolated incident it could be a nightmare.

Commissioner Scales stated it would be helpful to have a mechanism to be able to eliminate those problematic residences.

Chair Maggi stated someone could make a motion to deny the proposed prohibitive ordinance with a recommendation to Council that the Planning Commission would support rules that protect the neighbors but allows some flexibility in short-term home rental.

Commissioner Robertson added that it may be a two-step process in which the Planning Commission first takes a vote yea or nay and then comes back with some suggested language to Council.

Chair Maggi suggested that the second part not necessarily be part of the motion, but rather a

general statement of Commissioner thoughts and that we would appreciate more research.

Planning Commission Recommendation

Motion by Commissioner Weber, second by Commissioner Robertson, to deny the request for an ordinance amendment to prohibit transient lodging (short-term rentals) of residential property.

Motion carried (6/2 – Wippermann, Lissarrague). This item goes to the City Council on August 28, 2017.

Chair Maggi asked that the previous comments be included in the minutes.

Commissioner Niemioja stated she did not feel comfortable putting on record that if this was approved the workaround was to rent your property out for 31 days when really someone only stayed for a couple nights. She did not think that was the kind of ordinance the City wants to create.

Commissioner Therrien stated to him frequency was the issue; perhaps they could limit the number of rentals to once a month, etc.

Commissioner Robertson stated the minutes will provide a summary of Commissioner thoughts and concerns.

Ms. Botten said the public can attend the Council meeting as well.

The meeting was adjourned by unanimous vote at 8:07 p.m.

Respectfully submitted,

Kim Fox
Recording Secretary