

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, August 17, 2010 – 7:00 p.m.
City Hall Chambers - 8150 Barbara Avenue

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

Commissioners Present: Tom Bartholomew
Paul Hark
Dennis Wippermann
Harold Gooch
Pat Simon
Damon Roth
Christine Koch
Mike Schaeffer
Tony Scales

Commissioners Absent:

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

APPROVAL OF MINUTES

The minutes from the July 20, 2010 meeting were approved as submitted.

KAY DICKISON – CASE NO. 10-26V

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a variance to allow up to four detached accessory buildings whereas one detached accessory building is allowed in the R-1C zoning district, and a variance from the setback requirements for one structure to be located 40 feet from the shoreline elevation whereas 50 feet is the required setback, for the property located at 7521 River Road. 3 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the subject site is 2.9 acres in size and is divided by railroad right-of-way and River Road. Ms. Botten advised that the request has changed since the public hearing notice was published, and the applicant is now requesting to construct two detached accessory buildings whereas City Code allows only one detached accessory building in the R-1B zoning district. The smaller structure would also need a setback variance from the river as it would be 40 feet from the river's ordinary high water mark (OHW) whereas 50 feet is required. Ms. Botten advised that DNR opposes the variance request and pointed out an additional requirement regarding the setback from top of bluff. Based on the property elevations available, staff does not believe there is a buildable area anywhere on the eastern portion of the property due to the 40 foot setback requirement from top of bluff. The applicant could avoid impacting the bluff by moving the structure further south, however that would still require a variance from the front yard setback from the road. Staff feels the variance criterion have not been met and therefore recommends denial of the request with the rationale as listed in the report.

Commissioner Hark asked how far back the house on the property south of the subject property was setback from the river.

Ms. Botten replied she was unsure and added that the house could have been constructed prior to establishment of the current critical area regulations.

Commissioner Gooch asked if DNR could overrule City approval on this project.

Ms. Botten replied they could not, however, acting against DNR recommendations could have future implications in regards to grants, etc.

Opening of Public Hearing

Kay Dickison, 8200 River Road, stated she was the owner of 7521 River Road, and wanted to construct a house, detached garage, and a studio/boathouse.

Rolf Lokensgard, 3932 Stonebridge Drive North, advised he was Ms. Dickison's architect. He showed a photo of the three acre lot and site plan and explained that the applicant was requesting to build a small, sustainable, energy-efficient house. They are proposing a detached garage as an attached garage would reduce light, ventilation, and visibility by 25%. Mr. Lokensgard stated his client would like access to and a view of the river, however, one of the hardships is that the lot is divided by River Road. Therefore, they are requesting a ten foot variance to allow them to build a studio/boathouse/contemplative space overlooking the river.

Ms. Dickison stated she plans to remove three existing structures thus reducing the clutter on the property. Ms. Dickison stated that the proposed studio/boathouse/contemplation space would provide security to both she and her neighbors by eliminating a vacant property which would likely encourage vandalism and littering. She stated she would install security lights and would only need electricity; no sewer or water. Ms. Dickison advised there were recently built homes in the area which were built closer to the river than her proposed space. In regards to the bluff issue, Ms. Dickison stated the proposed structure would be minimally visible from the river. She stated that moving the home to the southern end of the lot would require extensive tree removal.

Commissioner Simon asked if the applicant was planning on installing an interior or outdoor wood stove, to which Ms. Dickison replied an indoor potbelly stove.

Commissioner Wippermann asked if the proposed location would minimize tree removal, to which Mr. Lokensgard replied in the affirmative, stating no trees would need to be removed at the current proposed location.

Commissioner Wippermann stated the diagram showed five existing accessory structures.

Ms. Dickison replied that some of the structures had already been removed and the three remaining would be removed as well.

Chair Bartholomew suggested the applicant consider attaching the garage to the house as it would eliminate most of the issues.

Ms. Dickison stated she would prefer not to attach the garage.

Commissioner Hark asked for the definition of an attached garage, to which Ms. Botten replied there had to be a shared wall with access from one to the other.

Planning Commission Discussion

Commissioner Wippermann asked if there would still be issues if these were two separate properties, to which Ms. Botten replied that an accessory building is not allowed on a lot without a principle structure.

Commissioner Wippermann stated he would like to find a viable hardship as the proposed project would be an improvement to the property. He suggested a possible hardship for the setback variance be that leaving it in the proposed location would eliminate the need for tree removal.

Commissioner Roth stated he agreed with Commissioner Wippermann, and felt that perhaps the City could compromise in a situation such as this where the applicants are building a sustainable home.

Chair Bartholomew asked if the applicant would like to table the request to give them time to work with staff on a plan to connect the garage to the house.

Commissioner Koch stated she would support granting a variance for the studio but would like to figure out a way of connecting the house to the garage.

Commissioner Gooch asked if three variances would be required - one for setback from the OHW, one for setback from the bluff, and one for the second accessory structure.

Chair Bartholomew stated it appears as if there were four variances needed for setback from the road, setback from the bluff, setback from the OHW, and possibly one for the second accessory structure.

Commissioner Roth asked if DNR could put a stop work order on the studio, to which Mr. Hunting replied that the DNR would not interfere unless it was a critical situation.

Commissioner Simon asked if a permit was needed from the DNR to build on the water line, to which Mr. Hunting replied that the permitting was done at the local level and the DNR would not intervene unless there was a pattern of continual variances without viable hardships.

Commissioner Simon stated she opposed the request due to lack of hardship.

Commissioner Hark stated he would like to see the applicant come back with a modified plan that included an attached garage.

Chair Bartholomew asked Ms. Dickison if she wished to continue on in the process or table the request to work with staff.

Ms. Botten advised that if the applicant tabled the request until the next meeting they could still get on the September 13 Council agenda as originally scheduled.

Ms. Dickison stated she preferred to keep things moving and would therefore find a way to attach the garage with the caveat that if Council denied her request to have a studio/boathouse that she would no longer attach the garage.

Chair Bartholomew stated that the Commission would have to act on the request that was before them tonight which was a variance to allow two detached accessory buildings and variances from setback requirements for the structure on the river.

Ms. Botten stated that the setback variances from the water could be done in one approval.

Planning Commission Recommendation

Motion by Commissioner Wippermann, second by Commissioner Koch, to approve the request for a variance from the street, the OHW and the bluff area with the hardship being that not granting the variance would create additional removal of trees.

Commissioner Gooch asked if there was any location on the property where the accessory building could be located without a variance, to which Ms. Botten replied there was not.

Commissioner Gooch stated that the hardship of tree removal did not seem viable since a variance was needed no matter where the building was located.

Motion failed (2/7 – Scales, Hark, Simon, Roth, Schaeffer, Gooch, Bartholomew).

Ms. Botten stated the Commission should act on the variance request to allow two accessory structures, however, if the applicant came back with a modified plan that connected the house and garage the variance would no longer be needed.

Motion by Commissioner Gooch, second by Commissioner Hark, to deny the request for a variance to allow two detached accessory buildings whereas one detached accessory building is allowed in the R-1B zoning district, based on lack of hardship.

Motion carried (9/0).

Motion by Commissioner Simon, second by Chair Bartholomew, to deny the request for a variance from the setback requirements for the structure along the river, based on lack of hardship.

Motion carried (7/2 – Wippermann, Koch). This item goes to the City Council on September 13, 2010.

TEMO SUNROOMS AND EXTERIORS – CASE NO. 10-24V

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a variance from the corner front yard setback to construct a sunroom addition for the property located at 1634 Upper 55th Street. 4 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the subject property is located on the corner of Upper 55th Street and Asher Avenue. The applicant is requesting a variance to construct a porch addition 17 feet from the property line whereas 30 is required. Ms. Botten explained that when the house was built in 1969 it was not a corner lot; however when the lot was platted in 1974 a right-of-way dedication was required for Asher Avenue, thus creating a “corner” lot. By City Code corner lots have a more restrictive setback because they, by definition, have two front yards. Staff feels the variance criterion have been met and recommend approval of the request with the condition listed in the report. She added that staff heard from the neighbor to the south who was in favor of the request. .

Chair Bartholomew asked if the hardship was the road being constructed after-the-fact which created a more restrictive setback, to which Ms. Botten replied in the affirmative.

Opening of Public Hearing

Bob Maietta, TEMO Sunrooms and Exteriors, and Thomas Stehr, 1634 Upper 55th Street, stated

they were available to answer any questions.

Chair Bartholomew asked if the applicants were in agreement with the condition listed in the report, to which Mr. Maietta and Mr. Stehr replied in the affirmative.

Planning Commission Recommendation

Motion by Commissioner Gooch, second by Commissioners Koch and Schaeffer, to approve the request for a variance from the front yard setback to construct a porch addition for the property located at 1634 Upper 55th Street.

Motion carried (9/0). This item goes to the City Council on August 23, 2010.

CITY OF INVER GROVE HEIGHTS – OUTDOOR WOOD BURNERS – CASE NO. 10-20ZA

Reading of Notice

Commissioner Simon read the public hearing notice to consider the proposed ordinance regarding outdoor wood burners/boilers (OWBs) which will declare OWBs to be nuisances, prohibit new OWBs, regulate existing OWBs by establishing performance standards for existing, and establishing deadlines for existing OWBs to comply with such performance standards. 35 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She gave a brief history of the request, explaining that the Planning Commission is being asked to act on the proposed ordinance prohibiting all future OWBs and establishing performance standards for existing OWBs. She advised there are currently six known OWBs in the City of Inver Grove Heights. Ms. Botten advised there is considerable literature from various governmental agencies documenting the potential for significant harm to residents' health from the smoke emitted from OWBs, therefore the City finds that OWBs constitute a public nuisance. Planning staff and the City Attorney have discussed a number of performance standards and are proposing standards regarding chimney height, allowable months of operation, and prohibited burning materials that should address the nuisance concerns. Staff is proposing that the stack or chimney height of the OWB be at least two feet taller than the height of the tallest peak or point of the roof of the principle structure as measured from the elevation of the principle structure. Staff is also recommending that OWBs only be operated from October 1 through April 30 each year and that only fuels approved by the OWB manufacturer for burning be allowed. This would prohibit items such as leaves, treated wood, rubber, and furniture. Staff does not feel it necessary to address allowed zoning districts or to require an annual permit. Ms. Botten advised that OWB performance standard violations could be enforced like other performance standards, utilizing the City's code enforcement officer. Staff has a concern that issuance of an annual permit could create the false impression that the City is warranting that the OWB is mechanically sound. Also, the City does not require annual permits for other types of furnaces or mechanical equipment. Ms. Botten advised that staff does not support setback requirements from property lines and/or neighboring structures for existing OWBs. She advised that no other metro cities that she is aware of have required existing OWB owners to relocate the OWB on the property, and it was found that complaints stopped in the cities once the owners increased the chimney/stack height. Staff is recommending that the burning materials and seasonal burning restrictions become effective on or before December 1, 2010 and the chimney height requirements by December 1, 2011. Staff recommends approval of the proposed code amendment banning all future OWBs and establishing performance standards for the existing OWBs. Ms. Botten advised that staff received one email from a resident who was in favor of banning all future and existing OWBs.

Commissioner Simon questioned the timing of the moratorium vs. the proposed ordinance.

Ms. Botten advised that the moratorium was good until next summer or until an ordinance was passed and took effect.

Commissioner Wippermann asked what steps a property owner would take if they were still experiencing problems after an ordinance was adopted.

Ms. Botten replied if the OWB owner was in compliance with the approved performance standards the issue would become a civil matter.

Commissioner Wippermann questioned why staff was recommending that the chimney height requirement not take effect until December 1, 2011.

Ms. Botten replied that staff felt it was reasonable to give OWB owners a full season to get into compliance and it was unlikely that the ordinance would be passed before the start of this season's burning time.

Commissioner Wippermann asked if there was any consideration given to the height of the principle structures of the neighboring properties in relation to stack height.

Ms. Botten stated staff felt that an OWB chimney should be treated similarly to that of an indoor wood stove or fireplace and that the stack height should be in relation to the principle structure only on the OWB property itself.

Commissioner Wippermann suggested using the higher of either the height of the principle structure or that of the neighboring property. Ms. Botten replied that would be difficult to administer from a staff level.

Commissioner Roth asked if outdoor fireplaces would be affected by this ordinance, to which Ms. Botten replied they would not as fireplaces and firepits were completely separate uses from OWBs.

Opening of Public Hearing

Robert Heidenreich, 11632 Akron Avenue, stated he has owned his OWB for close to 13 years. He advised that he intentionally installed his OWB on the lowest area of his parcel so the smoke would settle in the woods and not offend his neighbors. He stated if this ordinance was adopted he would have to build a 32 foot tall stack which would emit smoke directly to his neighbor's house and would also be unsightly whereas currently it was hidden. Mr. Heidenreich recommended that the six properties be treated individually rather than having a blanket rule.

Armando Lissarague, 11730 Albavar Path, stated that his neighbor installed an OWB after he had purchased his home. Mr. Lissarague stated he has coronary disease and would have never purchased his home had he known there would be an OWB on the neighboring property. He stated his family has suffered from allergies, coughs, sore throats, etc. in the last few years. He stated this is a health issue and he requested that the City ban all OWBs, both existing and future. He stated several agencies have determined they are a nuisance and as such several cities have begun to control them. He displayed photographs of smoke floating onto his deck and back yard. If existing OWBs were to remain, he questioned what a safe distance would be from the neighboring property. He advised the OWB next to him was 275 feet away and yet the smoke still infiltrated his home, therefore the setback should be at least 300 feet from the property line and 500 feet from the nearest neighboring residence. In regards to the proposed stack height requirement, Mr. Lissarague suggested that the City adopt the recommendation of most boiler companies that the height of the chimney be at least two feet higher than the closest neighbor's

residence within 500 feet from the OWB, that OWBs only be used from December 15 through March 15, that annual inspections be required, and that the City have the right of inspection at any time which would give the City the ability to monitor burning material violations. He recommended that the City adopt a smoke/health nuisance ordinance which was supported by a fine and loss of privilege to violators.

Richard Larson, 7038 Angus Avenue, stated he has an OWB. He advised he burns only seasoned wood and believes the majority of OWB owners do the same as the equipment would not work properly if they did not. He questioned the rationale for requiring the chimney be two foot above any structure on the property, stating normally chimney height requirements were based on drafting considerations.

Ms. Botten stated the standard was a tool the City could use to determine how high the stack should be and it would be similar to the standard used for indoor woodburners or fireplaces.

Mr. Larson stated there was a difference in that the chimney is directly above an indoor woodburner whereas with OWBs the chimney may be quite a ways from the principle structure on the property and would be subject to drafting. He stated that staff's recommended stack height guidelines could actually create additional problems rather than being a benefit as it would not draft properly the chimney would cool too much and would not get rid of the smoke properly.

Jeff Andresen, 4675 – 138th Avenue, Apple Valley, read an email from Tom Esselman, 11975 Albavar Path. Mr. Esselman's email stated that no chimney height would resolve the smoke and health concerns and he recommended the City completely ban OWBs, both future and existing. Mr. Andresen recommended that an environmental consultant be hired to set the performance standards.

Gerald Biesterveld, 11940 Albavar Path, stated he was in support of banning all OWBs.

Phillip Schmidt, 11702 Alexandria Court, stated he heats his home with an indoor fireplace insert. He questioned how that was different from an OWB and stated he was concerned about the potential for future expansion of the ban to include recreational fire pits and indoor woodburners.

Chair Bartholomew stated it was his understanding that OWBs have a dampened burning environment which allows larger particulate.

Mr. Schmidt stated that fireplace inserts use dampeners as well to control air flow into the unit.

Chair Bartholomew stated that everything he has read indicates that OWBs emit much larger particulate than indoor fireplace inserts.

Michelle Gaydos, 11660 Albavar Path, asked if a new property owner would have the right to continue to operate an OWB if they purchased a property on which an existing OWB was present.

Ms. Botten stated existing OWBs would stay with the property, so if the property was sold the new owner could continue to operate the OWB.

David Gaydos, 11660 Albavar Path, stated he would prefer to see a complete ban on all OWBs, however, if the existing OWBs were allowed to remain he recommended they be deemed obsolete at such point as they deteriorate and need repair. He stated that OWBs differ from indoor woodburners in that they continually cycle.

Richard Elbert, 8569 Alverno Ave, stated this was a health issue. He advised that he worked in the

heating and cooling industry for 39 years and now has respiratory disease which he feels is due to working with pollutants from gas, oil and wood burners. He stated he was in favor of a total ban on OWBs, adding that because of his health he cannot tolerate any wood burner smoke whatsoever. Mr. Elbert stated the research of forensic toxicologist David Brown indicates that smoke from an OWB can travel a half mile and in Mr. Elbert's opinion there is no setback large enough to make them healthy. Mr. Elbert advised that the proposed stack height recommendation is a Minnesota Building Code. Mr. Elbert encouraged the City to ban all OWBs, stating that several other cities have already done so as well as the State of Washington.

Mr. Heidenreich stated that the two foot chimney requirement is a Minnesota Building Code requirement for the structure that the chimney is installed on – not for the adjacent buildings in the area.

Planning Commission Discussion

Commissioner Wippermann stated he did not feel the proposed performance standards would be effective and he supported a total ban on future and existing OWBs.

Chair Bartholomew stated he felt that OWBs posed an inordinate amount of health risks and therefore he supported a total ban on all OWBs as well as a timeline of when existing OWBs should be removed from the City.

Commissioner Hark stated that although he understood staff's desire to establish measureable standards, he questioned whether chimney stack height would help resolve smoke issues. He stated he was conflicted because there were only six existing OWBs in the City, the owners have a lot of money invested and installed their OWBs at a time when they were allowed, and there have been very few complaints received; however, he understands what a negative impact they could have on the neighboring properties and does not feel they are appropriate in this City. He did not feel that the proposed standards for existing OWBs were sufficient but that they could be fine tuned down the road. He recommended that language be added to the ordinance specifying that existing OWBs cannot be extended, expanded or enlarged, and when a property owner of an OWB sells his property that OWB is then required to be out of use.

Commissioner Roth asked if there was any discussion regarding possibly installing scrubbers on the OWBs, to which Ms. Botten replied there was not.

Commissioner Roth stated he could not speak to their use in relation to OWBs, but they were successful in removing particulate matter from the smoke stacks of coal burning power plants.

Commissioner Schaeffer asked if there was a precedent in terms of the elimination of transfer of ownership when a property is sold.

Commissioner Simon stated there are requirements for bringing septic systems into compliance at point of sale and therefore forcing a homeowner to take an action.

Ms. Botten stated that would be different than requiring they stop the use completely. She stated she would ask the city attorney if elimination of transfer would be legally allowed.

Commissioner Scales stated he supported a ban on future OWBs, but felt it was an undue hardship to force the six existing OWB owners to stop using their equipment. He stated he would, however, consider a requirement that they not be replaced down the road.

Chair Bartholomew stated from his point of view the neighbors of the OWB owners had rights as well, and felt that because the risk level was so high the City had to do something extraordinary.

Commissioner Koch stated she supported a ban on future OWBs, questioned whether the existing OWBs should have blanket standards or instead be dealt with on an individual basis, and suggested staff look into the effectiveness of scrubbers.

Chair Bartholomew suggested tabling the request to give staff time to look into whether there were scrubbers on the market that could reduce the particulate to an acceptable level.

Commissioner Hark requested that staff discuss with the city attorney the possibility of eliminating OWBs upon sale of the home.

Commissioner Wippermann requested that the city attorney also look at establishing a sunset date by which the existing OWBs must be discontinued.

Commissioner Schaeffer requested that staff look into stack height, stating there seems to be a question as to how increasing the stack will affect the performance of the unit, whether the stack height should be relative to the structure its connected to rather than a structure that is hundreds of feet away, and whether increasing the stack height could actually create new issues. He questioned whether there would be another mailed notice to the public.

Ms. Botten stated there would not be another mailed notification; rather staff would announce the next public hearing date at this meeting.

Chair Bartholomew asked if Commissioner Schaeffer was asking City staff to explore further the reasoning for stack height.

Commissioner Schaeffer stated they heard testimony tonight indicating that perhaps the stack height should be customized to the specific location.

Ms. Botten stated the City could not have individual requirements for individual properties.

Chair Bartholomew asked if they could have requirements specific to distances from neighboring homes.

Ms. Botten advised that the request should be tabled to the September 21 Planning Commission meeting to allow time for the city attorney to gather all the information being requested.

Commissioner Wippermann stated he would not be attending the September 21 meeting, but stated his position is that he would prefer to ban all OWBs, both existing and future.

Planning Commission Recommendation

Motion by Commissioner Simon, second by Commissioner Schaeffer, to table until September 21, 2010, the request for an ordinance amendment prohibiting new outdoor boilers and establishing performance standards for existing outdoor wood burners/boilers, to give staff time to look into the following issues: 1) whether scrubbers were used on OWBs and whether they were effective, 2) eliminating OWBs on point of sale, 3) establishing a deadline or sunset provision, 4) explore further the reasoning for stack height, especially as it relates to the impact on neighboring properties, 5) adding verbiage that existing OWBs will not be extended, enlarged, or expanded.

Motion carried (9/0).

IGH INVESTMENTS LLC (ARGENTA HILLS) – CASE NO. 10-28PUD

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a preliminary plat for a 45 lot single family subdivision, a preliminary PUD Development Plan Amendment to modify the original plan in the northeast corner to allow a 45 lot single family residential development, and a final plat and final PUD Development Plan for the plat of Argenta Hills 2nd Addition, Phase 1 consisting of 12 single family lots and multiple outlots. 14 notices mailed.

Presentation of Request

Allan Hunting, City Planner, explained the request as detailed in the report. He gave a brief background of the original overall Argenta Hills PUD which was approved in 2007. He stated the applicant is requesting approval of an amended preliminary PUD development plan and plat for the first phase of residential development in the overall Argenta Hills PUD. They are also requesting a final plat and final PUD approval for 12 single family lots. Mr. Hunting advised that the revised plan includes 45 lots whereas 60 were originally proposed. He stated that upon further investigation into soils and engineering analysis, the applicant is proposing some redesigned lots and road configurations to avoid impacting an area of poor soils. They are also proposing minor changes to the proposed trail system to better fit trail locations with the natural topography. Mr. Hunting stated that the proposed lot widths have increased from 60 to 66 feet, they average 9,000 – 10,000 square feet in size, the building pad area has increased from 50 feet to 55 feet wide, they will continue with a five foot setback on each side which was approved with the original PUD, the open space will be reduced by approximately one acre but is still well over the required amount, and they have created numerous outlots which define stormwater areas, as well as disturbed and undisturbed areas. Mr. Hunting advised that the proposed streets will be 20 feet wide which allows parking on one side, and the developer has agreed to pay the original amount of connection charges. The applicants are requesting some flexibility on tree preservation to have two pine plantations not be included in the reforestation requirement. He advised that a similar situation occurred with the Summit Pines development in which due to the density and close proximity, the trees were not of high quality and the City determined in that case that the trees could be excluded from reforestation requirements. Staff recommends approval of the request with the 37 conditions listed in the report.

Commissioner Hark asked for clarification of the term 'pine plantation'.

Mr. Hunting replied it is a term used by tree foresters and those in the industry to describe trees that are not high quality due to the close spacing from the original planting. He stated pine plantations are looked at on a case-by-case basis.

Commissioner Hark stated in his opinion the pine plantations should be counted and not treated differently than other trees.

Tom Link, Community Development Director, advised that the consultant that did the Natural Resource Inventory for the Northwest Area determined that while pine plantations may have an aesthetic value, they do not have much value from a biological or environmental standpoint.

Commissioner Simon commented that she received calls from several Northwest Area Task Force members who were upset about the pine plantations being considered non-viable. She stated one of the things they argued for as a task force was that pine trees be counted. She stated they should be counted although not necessarily on a one-to-one basis.

Commissioner Scales agreed with Commissioner Simon that the trees should be counted in some capacity. He advised that he grew up near the Summit Pines development that was referenced

earlier and he commented that the work done on that site completely changed the character of Inver Grove Trail.

Commissioner Wippermann questioned why the outlots were divided into such small parcels.

Mr. Hunting replied the developer was attempting to graphically define the disturbed, undisturbed, and stormwater pond areas.

Opening of Public Hearing

The applicant, Greg Munson of IGH Investments, advised that the first time through they focused on the commercial portion of this development. It is unknown at this point when that will be built and therefore they are trying to keep the development moving forward while they wait for the commercial by going ahead with Phase 1 of the residential portion. He stated they identified a soil issue in the southern part of the original site plan which would require more than a half million dollars to correct. Therefore, they modified their original plan, will be able to stay almost completely out of the poor soils area, and have a builder who is prepared to have a model home completed for the spring Parade of Homes. Mr. Munson stated that the proposed plan will help spur commercial development, allow the City to begin recovering fees for the substantial investment they have made in the Northwest Area, and create a more desirable layout with larger lots. In regards to the reforestation issue, Mr. Munson stated it was not economically feasible for them to replace every caliper inch of the pine plantation. He stated they are providing a lot of extra open space and are requesting some flexibility. He advised that the new plan has one acre less open space, however, more of it is undisturbed and contiguous which is of a higher value according to the Comprehensive Plan and the Northwest Area Plan.

Commissioner Roth asked if this would be similar to any of their other developments.

Jacob Fick, IGH Investments, stated because of the unique topography of this site they have never built in an area with similar elevation changes. However, they have built several similar developments in the metropolitan area with similar lot sizes and setbacks, such as Cobblestone Lakes in Apple Valley and Spirit of Brandtjen Farms in Lakeville. .

Planning Commission Discussion

Commissioner Wippermann stated when this development was originally proposed the Planning Commission added a condition requiring a 20 foot separation between structures. That condition was later removed by City Council; however, he feels there should be a larger separation than 10 feet as it would give the appearance of row houses.

Commissioner Roth stated he would prefer a 5 and 10 foot side yard setback as it would provide a wide enough access to get equipment in should a modification or repair need to be done in the back yard.

Commissioner Simon expressed her dissatisfaction with the proposed tree reduction from 11,023 caliper inches to 2,219 caliper inches and stated she would vote against the request unless the tree preservation plan was modified.

Commissioner Scales stated he supported the request, but would like consideration given to adding more trees in future similar developments.

Commissioner Hark stated he would vote against the request unless the applicant compromised and agreed to put in more trees. He stated he did not feel a precedent was necessarily set by the Summit Pines development.

Commissioner Roth suggested adding trees after the homes were constructed similar to what they did in the Evermoor development in Rosemount where they established covenants that required that a certain amount of trees be planted by the homeowner once the home was constructed.

Mr. Hunting stated the proposed landscaping plan requires that trees be planted after the house is constructed, however, the City typically does not put any burden on the homeowners to install landscaping.

Commissioner Roth suggested that a possible compromise to get additional trees in but yet avoid additional cost to the developer would be to add a requirement in the purchase agreement that all homeowners would plant a certain amount of trees.

Mr. Munson stated that currently the applicants are required to plant two front yard trees per lot. He stated that requiring a homeowner to plant trees would likely result in the builder having to sell the house for less to make up for the cost of the trees.

Commissioner Roth asked if there would be neighborhood covenants, to which Mr. Munson replied in the affirmative.

Mr. Munson stated that replacing all the caliper inches would basically double the area charges and they would be upside down before they even started.

Chair Bartholomew asked for clarification of the timing of the tree planting.

Mr. Fick stated the trees along Highway 3 would be planted right away and the front yard trees would be planted after the home was constructed.

Commissioner Hark stated he was willing to negotiate on the trees and asked the applicant to propose something reasonable.

Chair Bartholomew asked if staff felt the proposed 2,219 caliper inches was adequate.

Mr. Hunting stated in the past they have removed the numbers from the pine plantation and the remaining numbers speak for themselves.

Mr. Munson stated he was uncomfortable coming up with a number because they were already losing money on every lot they develop in the first phase.

Mr. Fick stated they are planning to retain as many trees as possible, however, buyers typically don't want a pine tree in their yard that looks like a Q-Tip.

Chair Bartholomew asked for clarification on the proposed separation between homes.

Mr. Hunting stated the Northwest Area ordinance stipulates a 20 foot separation in order to provide enough space for rain gardens if needed. In this case, however, they are not utilizing the side yards for infiltration therefore the applicants are requesting the flexibility to cluster. He advised that the City Council agreed to grant that flexibility and approved a 10 foot separation with the preliminary plat.

Chair Bartholomew stated that while he understood people's concerns regarding the tree plantation, he felt the trees were poorly planted and should not be included in the total. He was willing to consider a compromise however.

Commissioner Hark stated he was hoping the applicant could propose a number.

Mr. Munson stated that right now the proposal in front of the Commission was what they felt comfortable with. However, if the Planning Commission were to propose something other than that they would look into it and see if they could make it work.

Commissioner Scales suggested adding one additional tree to each back yard which would result in 45 additional trees, or three trees per lot instead of two.

Mr. Munson stated the applicants could likely make that sort of number work.

Chair Bartholomew stated there was a lot of money invested in this project and if adding one more tree to the lot would make it move forward he would be in favor of that.

Commissioner Gooch stated he was in support of the request and felt it was important to the City to get some development going out there. He stated he supported a 20 foot separation with the original plat as well, however City Council approved a ten foot separation and therefore they needed to move on.

Planning Commission Recommendation

Motion by Commissioner Schaeffer, second by Commissioner Roth, to approve the request for a Preliminary Plat and Preliminary PUD Development Plan Amendment with the conditions listed in the report and added verbiage to Conditions 27 and 28 to require an additional tree be planted in each yard for a total of 159 trees. .

Ms. Botten advised that Conditions 27 and 28 have been changed to Conditions 22 and 23.

Chair Bartholomew asked if it would be better to add a separate condition regarding the additional trees, to which Mr. Hunting replied in the affirmative.

Chair Bartholomew asked if it was Commissioner Schaeffer's intention to add a condition requiring one more tree on each of the 45 lots.

Commissioner Schaefer stated he would prefer to propose an additional Condition No. 38 requiring that 159 trees, and the corresponding caliper inches of those, be planted throughout the development as seen fit by the developer.

Commissioner Roth seconded the amended motion. He asked if the developer would have the flexibility to plant the trees on the outlots if needed, to which Mr. Hunting replied in the affirmative.

Commissioner Wippermann advised he would be voting against the request because he was opposed to the ten foot separation.

Motion carried (6/3 - Wippermann, Simon, Hark).

Motion by Commissioner Schaeffer, second by Commissioner Koch, to approve the request for a Final Plat and Final PUD Development Plan, for Argenta Hills 2nd Addition.

Motion carried (6/3 – Hark, Simon, Wippermann). This item goes to the City Council on September 13, 2010.

ADJOURNMENT

Chair Bartholomew adjourned the meeting at 10:11 PM.

Respectfully submitted,

Kim Fox
Recording Secretary