

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, January 15, 2013 – 7:00 p.m.
City Hall Chambers - 8150 Barbara Avenue

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

Commissioners Present: Armando Lissarrague
Paul Hark
Pat Simon
Tony Scales
Harold Gooch
Dennis Wippermann
Victoria Elsmore
Annette Maggi

Commissioners Absent:

Others Present: Allan Hunting, City Planner
Tom Link, Director of Community Development
Heather Botten, Associate Planner
Scott Thureen, Director of Public Works

APPROVAL OF MINUTES

The minutes from the December 18, 2012 meeting were approved as submitted.

CITY OF INVER GROVE HEIGHTS

Reading of Notice

No public hearing notice.

Presentation of Request

Scott Thureen, Public Works Director, asked the Planning Commission to review the proposed addition to the 2012 Improvement Program for its consistency with the City's Comprehensive Plan. He advised that the proposed project would complete the construction of the stormwater management system in the Orchard Trail development and would include pond excavation, slope grading, rain garden construction, erosion control, storm sewer, restoration and appurtenances. This work was not completed due to the developer filing for bankruptcy and, as such, part of the proposed stormwater plan will require special assessments.

Commissioner Wippermann asked if the developer provided a bond when this area was first developed.

Mr. Thureen replied that the developer provided a Letter of Credit; however, the developer went bankrupt and the bank also failed.

Commissioner Simon asked if a Letter of Credit was similar to an escrow.

Mr. Thureen replied in the affirmative.

Commissioner Simon asked if the special assessments would go the residents in that area.

Mr. Thureen replied that the proposed funding package going to a public hearing on January 28 would include special assessments as well as a city contribution.

Commissioner Simon asked if Orchard Trail had a homeowners association.

Mr. Thureen replied that he believed they did.

Commissioner Simon asked if the affected property owners were notified.

Mr. Thureen replied in the affirmative.

Opening of Public Hearing

There was no public testimony.

Planning Commission Discussion

Commissioner Simon asked if this was part of the CIP.

Mr. Hunting replied it was a separate issue.

Planning Commission Recommendation

Motion by Commissioner Gooch, second by Commissioner Lissarrague, to determine that the proposed addition to the 2012 Improvement Plan (2011-15 – Orchard Trail Storm Water Improvements) is consistent with the Comprehensive Plan.

Motion carried (8/0). This item goes to the City Council on January 28, 2013.

CAROL FETZER – CASE NO. 12-36V

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a variance to construct a porch addition seven feet from the side property line whereas 10 feet is required, for the property located at 2612 Borden Way.

Presentation of Request

Allan Hunting, City Planner, explained the request as detailed in the report. He advised that the applicant would like to construct a screened-in porch on top of an existing deck which is seven feet from the property line. The deck meets the five foot minimum required setback for an accessory structure; however, a covered porch would be considered a principle structure and therefore must meet a ten foot minimum setback from the property line. Staff feels the request is not out of character for the neighborhood, is consistent with the Comprehensive Plan, does not appear to have any adverse impacts on the neighboring properties, and reasonably fits the criteria of the practical difficulty. Staff recommends approval of the request with the two conditions listed in Alternative A.

Commissioner Simon asked if staff heard from any of the neighbors.

Mr. Hunting replied they had not.

Commissioner Maggi asked if the accessory structure on the property south of the subject property met the required five foot setback.

Mr. Hunting replied it appeared as if it did.

Chair Hark asked for clarification of the proposed screened-in porch location.

Mr. Hunting advised it would be built over the existing deck as indicated in red on the site plan.

Opening of Public Hearing

Jim McDonald, 8785 River Heights Way, advised he was the builder and would be representing the applicant.

Chair Hark asked if the applicant understood and agreed with the conditions listed in the report.

Mr. McDonald replied in the affirmative.

Commissioner Wippermann asked what the dimensions were of the proposed porch.

Mr. McDonald replied approximately 13' x 21'.

Commissioner Simon clarified that prior to the issuance of a building permit the land owner must first combine the two lots into one tax parcel.

Mr. McDonald replied that he understood and would inform the homeowner.

Chair Hark asked if Mr. McDonald was agreeing to that condition as a representative of the homeowner.

Mr. McDonald replied in the affirmative.

Planning Commission Discussion

Commissioner Wippermann stated approval of this request would set a precedent since it would be the first principal structure setback encroachment in the area. He was also concerned that approval of this request would encourage other property owners wanting to build a structure within the setback to first build a deck in order to get it approved. He also felt there was nothing unique to the property to justify the variance.

Commissioner Simon asked if there were any maximum impervious surface issues.

Mr. Hunting replied there were not.

Chair Hark pointed out that the proposed porch was further from the lot line than a portion of the existing deck.

Commissioner Wippermann noted that the deck, however, complied with the ordinance as it only required a five foot setback.

Commissioner Elsmore stated she had not had a chance to go to the property, and asked other Commissioners if the topography of the land would make it difficult to build the porch on the west side of the property.

Commissioner Maggi stated there was a good amount of level ground on the north side of the pool.

Planning Commission Recommendation

Motion by Commissioner Scales, second by Commissioner Elsmore, to approve the request for a variance to construct a porch addition seven feet from the side property line whereas 10 feet is required, for the property located at 2612 Borden Way.

Motion failed (3/5 - Maggi, Wippermann, Simon, Lissarrague, and Hark).

Motion by Commissioner Simon, second by Commissioner Wippermann, to deny the request for a variance to construct a porch addition seven feet from the side property line whereas 10 feet is required, for the property located at 2612 Borden Way, due to the lack of a practical difficulty.

Motion carried (6/2 – Elsmore and Scales). This item goes to the City Council on January 28, 2013.

EVAN MOLDE – CASE NO. 12-39C

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a conditional use permit to exceed the impervious surface requirements in a shoreland district, for the property located at 6240 Carmen Avenue. 14 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the applicant currently operates in a portion of the building and would like to expand their business. In doing so the applicant would add additional dock doors which would require removal of some of the existing parking. The proposed request is to add additional impervious surface for a 29 stall parking lot addition on the east side of the property. The property is located in a Shoreland Overlay District which allows 25% impervious surface in a development unless a conditional use permit (CUP) is approved. The applicant is requesting a CUP to add an additional 2% of impervious surface that would increase the total to 46%. The applicant is proposing a grass swale and a bio-filtration basin to treat the stormwater runoff and is working with the City on obtaining final approval of a storm water management plan. Ms. Botten noted that a similar request was approved on this property in 2009 for a different tenant; that impervious surface addition was never constructed and the CUP has since expired. This request was sent to the DNR for review; however, they have not yet sent a response and staff does not anticipate they would have any issues. Staff received only one inquiry from a neighbor who had general questions and did not state any concerns. Staff recommends approval for the request with the six conditions listed in Alternative A.

Chair Hark asked if the previous request was for a 2% impervious surface increase.

Ms. Botten replied it was for a 1% increase.

Commissioner Wippermann asked if a bio-filtration basin was similar to a rain garden.

Mr. Botten replied in the affirmative.

Commissioner Elsmore asked if a DNR response was required.

Mr. Botten replied it was not.

Chair Hark asked which conditions pertained to the stormwater and grading requirements.

Ms. Botten replied basically all the conditions.

Chair Hark asked if staff felt the conditions were adequate.

Ms. Botten replied in the affirmative.

Opening of Public Hearing

Evan Molde, 3035 Kimberly Lane, stated he represented the owner of the building.

Ted Carlson, Edina, stated he represented the tenant for this request.

Chair Hark asked Mr. Molde if he understood and agreed with the conditions listed in the report.

Mr. Molde replied in the affirmative.

Commissioner Simon asked what the tenant manufactured.

Mr. Carlson replied that Sportsman's Guide was an online catalog retailer for sporting goods.

Chair Hark asked if the business had a retail component to it.

Mr. Carlson replied it did not.

Planning Commission Recommendation

Motion by Commissioner Wippermann, second by Commissioner Gooch, to approve the request for a conditional use permit to exceed the impervious surface requirements in the Shoreland District, for the property located at 6240 Carmen Avenue, with the six conditions listed in the report.

Motion carried (8/0). This item goes to the City Council on January 28, 2013.

HALLBLADE TRAILER SALES – CASE NO. 12-37ZA

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for an appeal of a staff interpretation of the Zoning Ordinance (per Title 10, Chapter 3-7) pertaining to allowing an outdoor sales lot on the property located along Cahill Avenue, south of Cafferty Court and identified as PID No. 20-11901-010-20 and 20-11901-010-30. 8 notices were mailed.

Presentation of Request

Allan Hunting, City Planner, explained the request as detailed in the report. He advised that the applicant has requested an appeal of staff interpretation of the zoning ordinance. A public hearing notice was published in the paper and the surrounding property owners were notified. The request involves the property just south of Tractor Supply along Highway 52/55. The parcels are governed by an agreement that restricts land uses which was negotiated and entered into between the land owner and the Council back in 2005. This agreement includes a list of acceptable and prohibited uses; the question tonight is the meaning of outdoor storage. The applicant would like to relocate Absolute Trailer Sales to this location. The applicant believes that outdoor storage is consistent with the uses allowed and that the use is more similar to retail sales with 'outdoor storage'. Staff, however, contends that the list of allowed uses for this property does not include open sales lot or open storage as the principle use of the property under the category of 'outdoor storage'. Mr. Hunting summarized the history and creation of the specific land use agreements for this area. He

advised that around 2004 the City received applications for Advanced Auto and Discount Tire for properties in Arbor Pointe. Council was concerned about the mix of uses in the area and did not want this to become an auto oriented neighborhood. As a result, the code was changed to eliminate several auto related uses, including outdoor sales and rental, boat and marine sales, and outdoor storage and display. During that same time the landowners had come forward looking to change the zoning or have their property removed from the Arbor Pointe ordinance. Those discussions resulted in Council supporting the request to remove the property from the Arbor Pointe PUD and it was rezoned from Research and Development to B-3. Staff believes that outdoor storage was not intended to be an open sales lot, and they see this as being inconsistent with the Council's intent and with previous interpretations of outdoor storage.

Chair Hark asked what type of businesses the City was hoping to attract to this area.

Mr. Hunting stated they had no particular use in mind, but Council was hoping for a higher use, especially since it was a highly visible gateway area coming from the south.

Chair Hark asked if staff was aware of any inquiries from a higher use type business.

Mr. Hunting replied he was not.

Commissioner Scales stated he was having a difficult time finding the difference between Tractor Supply and the current request, and asked what criteria staff was using.

Mr. Hunting stated the main difference was that Tractor Supply's principal use was their building and the retail sales within that building, whereas the principal use of what is being proposed tonight would be an open sales lot.

Commissioner Scales asked if there was anything preventing Tractor Supply from bringing in a lot of trailers and selling them from their lot.

Mr. Hunting replied that their approved site plan specifies where outdoor storage is allowed, however, it does not specify what can be displayed.

Commissioner Scales advised that Tractor Supply has trailers displayed outside their front door.

Mr. Hunting stated that was an approved display area on their site plan.

Commission Gooch asked how large a building the applicants would have to construct for staff to be agreeable with the proposed use.

Mr. Hunting replied there was no specific size.

Commissioner Lissarrague asked how long the property had been for sale.

Mr. Hunting replied it had been vacant at least since the agreements were drawn up in 2005.

Commissioner Lissarrague asked if there was an existing RV storage lot near this property.

Mr. Hunting replied the storage area was south of this property along the west side of Highway 52/55 near larger truck type operations. He stated the City is trying to differentiate that type of use from this commercial area.

Commissioner Wippermann asked what type of notification was mailed out.

Mr. Hunting replied the notice was mailed to all properties within 350 feet.

Commissioner Simon advised that eight notices were mailed.

Opening of Public Hearing

Vance Grannis Jr., 9249 Barnes Avenue East, advised he represented the applicant. Mr. Grannis stated the percentage of building size to lot size was irrelevant and the determination should be based on the standards set forth in the ordinance. He discussed some of the history of this property, noting that the property owner asked for the property to be changed back to B-3, which was how he originally purchased it, and Council agreed and returned it to B-3. At the time Council stated they did not want car dealerships, auto sales, or fast food restaurants in this area, the land owner agreed so those uses were removed. The trailer sales being proposed, however, is general retail which is permitted. Mr. Grannis stated outdoor sales is allowed in B-3 and is present at many B-3 businesses, including Walmart, Rainbow Foods, Ace Hardware and Tractor Supply. The complaint seems to be that the applicant is proposing too much outdoor sales, however, there is nothing in the ordinance stating exactly how much is allowed. In regard to the building size, the applicant may eventually construct a larger building than proposed but wanted to get through this process before putting the time and money into final structural details. In regard to the City wanting something magnificent in this gateway area, the land owner would like that as well. He has actively advertised it for sale for 15 years or more, however, and contacted sit-down restaurants, etc. and they are not interested. He stated the landowner has been paying property taxes and special assessments on this property and should be entitled to sell his property to someone who wants to put a use on it that is not prohibited. Mr. Grannis likened this to the gateway area in Burnsville where I-35 splits. The City wanted a higher use in that area as well but no one was interested so the owner eventually threatened to sue and was subsequently allowed the uses present today. He asked that Commissioners recommend to City Council that this use be allowed and that the applicant's interpretation that this is general retail be accepted.

Commissioner Elsmore asked if the applicant was contending that because outdoor sales was not specifically prohibited as a use that it was not Council's intention to prohibit that use.

Mr. Grannis replied in the affirmative.

Commissioner Elsmore noted that outdoor sales was not listed as a permitted use either.

Mr. Grannis stated he interprets this use as general retail, which is permitted, and is how Tractor Supply is allowed to operate.

Commissioner Elsmore asked if Mr. Grannis was stating this was retail rather than outdoor sales or outdoor storage.

Mr. Grannis replied in the affirmative.

Commissioner Lissarrague asked how many people were employed at the applicant's present location on 149.

Mr. Grannis replied he was unsure. He stated the existing location would remain; this would be a second location. He noted there would be other types of sales in the proposed building other than trailers.

Mike Hallblade, owner of Absolute Trailer Sales, stated he currently had six employees at his present location and he foresees at least 5-10 employees for the new location. He stated the

reason he is moving to the new location is so he can expand as his current location has limitations. Mr. Hallblade stated this is the largest trailer dealer in the State of Minnesota and he needs the additional space. He stated he sees his business as being very similar to Tractor Supply. In regard to the proposed building size, he advised he has the potential of expanding that to 16,000 square feet. Mr. Hallblade showed photos of Tractor Supply, which illustrated outdoor storage on the site, and stated that unlike Tractor Supply, he would not be displaying products with gasoline or oil which could have potential runoff. He stated he should have the same rights as Tractor Supply as his business would fall in the same category of general retail with outdoor sales. Mr. Hallblade showed some analysis he had done in regard to building, display and lot area percentages. He advised that a neighbor who owns two properties across the street contacted him stating he supported the request.

Commissioner Elsmore asked if it was true that the applicant did approximately 80% of their business online.

Mr. Hallblade replied that is where a majority of his business comes from.

Commissioner Elsmore asked if they had customers that would come to the site and walk into the building to buy product.

Mr. Hallblade replied in the affirmative.

Commissioner Elsmore asked what products were sold inside.

Mr. Hallblade replied trailer parts and truck accessories. He added that this site had the potential to expand the sales to plows, weed whackers, power mowers, etc.

Commissioner Elsmore asked how many trailers were outside at the applicant's current location.

Mr. Hallblade replied approximately 400.

Commissioner Elsmore asked how many would be stored outside at the proposed location.

Mr. Hallblade replied likely 400 or less.

Commissioner Lissarrague asked how long Mr. Hallblade had been in business, and stated that the current building has always been kept in good condition.

Mr. Hallblade replied he has been in business since 1996 and grew from \$250,000 to just under \$5M in annual sales.

Planning Commission discussion

Muriel Carlson, 9250 Courthouse Boulevard Court, stated her brother has owned this property for 17 years and during that time he has paid high assessments under the assumption that he could eventually sell it to a business. She advised that restaurants are not interested in it, possibly due to it sitting back too far from the main intersection, low population density in this area, and she stated most restaurants probably do not want to be located next to a Tractor Supply. She felt the current proposal was a good fit for this property.

Andy Manthei, KW Commercial Real Estate, stated he is a real estate broker and has been working the property for the last eight years. He stated that retailers feel there were not enough homes or money to support a business on this property. They have personally contacted Perkins, Embers, and TGI Fridays, and have received inquiries from mini-storage facilities, apartment

developers, and senior housing developers, but no one has shown a serious interest in the property. He stated it is difficult to find tenants for the south side of Inver Grove Heights.

Mr. Grannis asked Mr. Link how many people have contacted the City about locating to this property.

Mr. Link replied that offhand he could only think of one or two inquiries.

Mr. Grannis stated that for various reasons no one seems to be looking to locate to this site for the type of use that is suggested in the staff report, and it was not fair for the property owner to prohibit this possible sale.

Mr. Link stated the City should not determine land use based solely on the current market. He advised there were many property owners that could make the argument that they have not received inquiries in the last several years, and the decision made on this request will set a precedent. He advised that Rottlund owns a property north of this and they have made the same argument. One of the options that has been talked about by Rottlund is to change from commercial to some form of residential. A residential development would generate a decent tax base and would provide the customers to support the existing commercial in the area.

Mr. Grannis stated the applicant is not asking for a zoning change to residential.

Planning Commission Recommendation

Chair Hark stated he could not see the distinction between Tractor Supply and Mr. Hallblade's proposal and felt it would be inconsistent and unfair to treat this request differently.

Commissioner Gooch stated he considers this a destination business which would bring in people from all over Minnesota. He advised that Absolute Trailer was very similar to Tractor Supply and would likely bring in more business for Tractor Supply. He stated this was a good location for this business but a bad location for a restaurant as it was hidden below the elevation of the freeway and was somewhat difficult to get to. He stated the City needed more businesses and there were many other areas in the City in which to build apartments and senior housing. He also thought this was a good transition to the City when coming from the south past Koch Refinery, truck dealers, and other industrial properties.

Commissioner Lissarrague stated Absolute Trailer would be an asset to the area and to Tractor Supply.

Commissioner Wippermann stated in his opinion the visual aspect of the proposed business compared to Tractor Supply was very different. He agreed with staff's interpretation of the ordinance and stated the decision should not be based exclusively on this specific business.

Commissioner Scales stated he supported the applicant's interpretation as he could find nothing in the ordinance that prohibited trailer sales.

Commissioner Elsmore stated she saw a big difference between Tractor Supply and the proposed request. Tractor Supply appears to have a retail store front in which a consumer would expect to park their car and go inside to purchase items. She would not expect to go in and shop at a lot lined with hundreds of trailers; however, especially when 80% of their business was done online. People have stated throughout the public hearing that it has been difficult to sell this property because it sits next to Tractor Supply. Her concern is that this will compound the problem because if Tractor Supply decides to leave it will likely be difficult to sell that property because it sits next to a trailer sales lot. In her opinion general retail is a store with a parking lot that may have some

outside storage.

Commissioner Maggi stated she felt the proposed use was different from auto sales as it does its primary business through the internet or as an indoor sales experience and they happen to store trailers outside; they do not have sales staff outside working the lot like a car dealership.

Commissioner Scales stated this is a retail experience and a good use of the property.

Commissioner Gooch stated this is the type of retail he shops at as well.

Commissioner Simon asked if the interpretation being requested would affect only this property or all B-3 in the City.

Mr. Hunting replied it would be specific to this agreement and would only affect the four properties shown on the map.

Commissioner Elsmore asked if the City had a working definition of retail.

Mr. Hunting stated they did not have a precise statement of the meaning of retail, however, the regular city code lists a number of permitted, conditional, and accessory uses, and it has a category for general retail sales. The zoning ordinance separates the uses out and retail has always been categorized as a business in which the primary product is inside a building.

Commissioner Elsmore asked if there was a category called outdoor sales.

Mr. Hunting replied there were categories for open sales lot, auto dealerships, and off-road vehicle sales. He stated if this were in the standard B-3 it would likely fall under off-road vehicle sales or automobile sales. These uses were separated out because of having the inventory outside as opposed to inside a building and the visual impact that would have.

Planning Commission Recommendation

Motion by Commissioner Gooch, second by Commissioner Maggi, to interpret the agreement such that the proposed use is similar to "retail, general" with "outdoor storage".

Motion carried (5/3 - Simon, Elsmore, Wippermann). This item goes to the City Council on January 28, 2013.

ADJOURNMENT

Chair Hark adjourned the meeting at 8:42 p.m.

Respectfully submitted,

Kim Fox
Recording Secretary