

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Wednesday, August 7, 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
Bill Klein
Annette Maggi
Victoria Elsmore
Harold Gooch

Commissioners Absent: Dennis Wippermann (excused)
Tony Scales (excused)

Others Present: Allan Hunting, City Planner
Heather Botten, Associate Planner

APPROVAL OF MINUTES

The minutes from the July 16, 2013 Planning Commission meeting were approved as submitted.

Chair Hark advised that Case No. 13-23PUD – 160 Investments LLC (Argenta Hills 8th Addition) has been pulled from the agenda.

ISD #199 – CASE NO. 13-35SCV

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a conditional use permit amendment to exceed the impervious surface amount allowed in the shoreland district, and a variance allowing a 20 foot rear yard setback whereas 30 feet is required, for the property located at 3201 – 68th Street. 90 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the applicant is proposing to add a 10,000 square foot addition for an Early Childhood Center onto the northwest corner of Hilltop Elementary School. The property is located in the Shoreland Overlay District of Bohrer Pond; therefore, it is limited to a maximum impervious surface of 25% unless a conditional use permit is approved. The existing impervious surface on the property is 39%; the proposed expansion would increase the impervious surface to 41%. The request was sent to the DNR for review, and at this time the City has not received any comment from them. In 2006 a much larger request was sent to them for a school addition and they did not have any concerns with the proposed request; staff is anticipating a similar response. The applicant is also requesting a variance for the addition to be located 20 feet from the rear yard property line whereas 30 feet is required. The request is not out of character for the neighborhood, is consistent with the comprehensive plan, the ten foot encroachment would not adversely impact the neighboring properties, it would have minimal impacts to the existing retention pond, and would have access to the existing public parking area as well as have its own entrance to the kindergarten side of the school for safety and security reasons. Staff recommends approval of the requests. Ms. Botten advised that staff received general inquiries from Drkulas and three other residents who voiced no major concerns.

Commissioner Simon asked if Hilltop Elementary completed the addition that was requested in 2006.

Ms. Botten replied in the affirmative.

Commissioner Simon asked if the impervious coverage went from 25% to 39% at that point in time.

Ms. Botten and Mr. Hunting replied they could not recall if the starting point was exactly 25% in 2006.

Commissioner Simon noted that Bohrer Pond had flooded in the past and asked if this request could have a negative impact on the homes near Bohrer Pond.

Commissioner Klein advised that issue had been resolved.

Opening of Public Hearing

Paul Youngquist, the architect representing District 199, advised he was available to answer any questions.

Chair Hark asked the applicant to state the practical difficulty.

Mr. Youngquist replied that they considered several locations for the proposed addition; however, this location was most appropriate. He advised that it was important the addition be connected to the existing kindergarten wing while utilizing the main public parking and access to Hilltop Elementary School. In an effort to avoid the variance, they tried to purchase the property to the north. The price, however, was double the appraised value and they decided that would not be the right thing to do with taxpayer money.

Chair Hark asked if the location of the existing retention pond played into the practical difficulty.

Mr. Youngquist replied in the affirmative.

Chair Hark closed the public hearing.

Planning Commission Discussion

Chair Hark supported Mr. Youngquist's stated practical difficulty, including wanting to avoid infringing on the existing retention pond.

Planning Commission Recommendation

Motion by Commissioner Simon, second by Commissioner Lissarrague, to approve the request for a conditional use permit amendment to exceed the impervious surface amount allowed in the shoreland district, and a variance allowing a 20 foot rear yard setback whereas 30 feet is required, for the property located at 3201 – 68th Street..

Motion carried (7/0). This item goes to the City Council on August 26, 2013.

HALLBLADE PROPERTIES LLC – CASE NO. 13-28VAC

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a vacation of certain public drainage and utility easements within the plat of Arbor Pointe Common Second

Addition, for the property located south of Tractor Supply and west of Cahill Avenue. 7 notices were mailed.

Presentation of Request

Allan Hunting, City Planner, explained the request as detailed in the report. He stated the two lots were recently replatted into one parcel for a trailer sales operation. At that time the existing public drainage and utility easements should have been vacated, but in this case were not. He advised that the easements are not needed and therefore staff recommends approval of the vacation. The applicant was advised they need not be present as staff would represent the applicant on this bookkeeping issue.

Opening of Public Hearing

There was no public testimony.

Chair Hark closed the public hearing.

Planning Commission Recommendation

Motion by Commissioner Gooch, second by Commissioner Klein, to approve the request for a vacation of certain public drainage and utility easements within the plat of Arbor Pointe Common Second Addition, for the property located south of Tractor Supply and west of Cahill Avenue.

Motion carried (7/0). This item goes to the City Council on August 12, 2013.

CITY OF INVER GROVE HEIGHTS – VAWT’S – CASE NO. 13-36ZA

Reading of Notice

Commissioner Simon read the public hearing notice to consider an ordinance amendment to Title 10 of the City Code (Zoning Ordinance) to allow vertical axis turbines in the A, E-1, E-2, I-1, I-2 and P zoning districts. No notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that Council directed staff to prepare a code amendment that would allow vertical axis wind turbines as a permitted use in the A, E-1 and E-2 zoning districts. Currently the City Code conditionally allows wind power converters in the A, E, I, and P districts. The code defines a wind power converter as a mechanical device that harnesses energy from the wind. By this definition vertical axis wind turbines would be allowed as a conditional use in the districts mentioned.

Commissioner Klein asked when the Council adopted that portion of the code.

Ms. Botten stated she was unsure, but that it had been in the code for at least 20 years. At this point they are looking at just vertical axis wind turbines to be a permitted use in the A, E-1 and E-2 districts, with the performance standards listed in the report. The standards are a collaboration of what the zoning code currently allows, what the direction was from City Council, and additional language from other wind ordinances. One of the performance standards would allow one vertical axis wind turbine per lot on lots less than 15 acres. On lots greater than 15 acres additional turbines would be allowed, provided they did not exceed a density of 15 acres per turbine. The maximum height allowed in each of the districts would be 52.5 feet. Vance Grannis suggested the company Intertech be added to the certified companies listed under the permitting section. Staff is agreeable to adding that language provided it is approved by the Chief Building Official. Staff recommends approval of the ordinance with the performance standards listed. Council directed staff to look at an alternative energy ordinance that would deal with both wind and solar; this will be

done late 2013 or early 2014. At this time only vertical axis wind turbines are being considered for approval.

Chair Hark suggested the language be tightened up regarding the maximum height allowed on top of a structure so as to make it clearer that the maximum height of a VAWT shall be 15 feet from the roof to the top of the VAWT.

Commissioner Maggi asked if noise should be addressed in this ordinance.

Ms. Botten replied that some cities stipulate a maximum dba while others require that all VAWT's comply with MPCA requirements; the latter is being recommended in the proposed ordinance. She stated the noise from a VAWT is likened to the sound of a refrigerator when standing 50 feet away from it.

Commissioner Maggi asked if there was a reason only this particular type of wind turbine was being addressed at this time.

Ms. Botten replied specifically because Mr. Grannis would like to have them on his property. At this point the City is trying to move this along and then they will do a more thorough review of all wind and solar approvals at a later date.

Commissioner Maggi asked if Mr. Grannis could request a conditional use permit for a VAWT.

Mr. Botten replied in the affirmative.

Commissioner Maggi asked if she understood it correctly that the City was moving this particular turbine option forward even though Mr. Grannis could have a VAWT if a conditional use permit was approved.

Ms. Botten replied in the affirmative.

Chair Hark stated that vertical axis turbines and the propeller type were completely different and perhaps that was another reason they were being dealt with separately.

Commissioner Lissarrague asked if the windmill type turbines were currently allowed in the E-2 district.

Ms. Botten replied they were allowed by conditional use permit.

Commissioner Klein asked how many VAWT's were in Inver Grove Heights at this time.

Ms. Botten replied none that she was aware of.

Commissioner Simon stated there used to be one off of 70th Street between Argenta and Robert.

Commissioner Gooch asked which other cities allow VAWT's.

Ms. Botten replied that some cities allow them with their wind ordinances but the only ordinance she was aware of in Minnesota that dealt specifically with vertical axis wind turbines was Cook County.

Commissioner Gooch asked if there were any VAWT's nearby where we might see one.

Chair Hark replied there were several at 1010 N. Dale Street in St. Paul.

Commissioner Lissarrague asked what major city was located in Cook County.

Mr. Grannis replied Grand Marais.

Commissioner Lissarrague stated they should keep that in mind.

Commissioner Elsmore stated that many different people make vertical axis turbines so likely the noise, size, energy, etc. would be different from turbine to turbine. She asked if this ordinance would allow all vertical axis turbines, thereby removing the City's ability to look at each one individually and potentially disallow one because of excessive noise, etc.

Ms. Botten replied that all VAWT's would be allowed as long as they met the performance standards, with one of them being that they have to meet the MPCA noise requirements.

Opening of Public Hearing

Vance Grannis Jr., 9249 Barnes Avenue E, addressed some of the previous questions. He advised that Councilman Madden stated at a meeting that he stood next to the VAWT's at 1010 N. Dale and stated they made no noise. Mr. Grannis stated the only ordinance he was aware of was in Cook County because other cities have not specifically addressed vertical axis turbines, and he felt a conditional use permit (CUP) would be very costly and was not necessary for this type of turbine. He stated it would likely cost \$2,000 for the CUP with perhaps an additional \$1,000 for a title company to do an address search of property owners within 1,000 feet. He stated a CUP may be necessary for the propeller driven turbines, however, because they were taller, noisier, could kill birds, and had potential fire problems. He suggested the language be removed regarding the City's ability to deny a building permit in regard to inadequate certification or testing for operation in a severe winter climate. He stated that language came from another ordinance and was related to the propeller turbines which have a tendency to get ice buildup. He showed photos of the turbines at 1010 N. Dale Street to demonstrate how small they could be and how they differed from the propeller type. He then showed a site plan of the proposed nature center, buildings, and proposed turbine location, stating they were all interconnected and the turbines were an important part of the overall plan.

Commissioner Klein asked if the County would be building any of the proposed buildings.

Mr. Grannis replied they would not.

Chair Hark asked Mr. Grannis if he had discussed the proposed turbines with his neighbors.

Mr. Grannis replied that most of them were aware of the proposal; however, he had not gone door-to-door to discuss it. He stated the turbines would be hard to see from neighboring properties.

Commissioner Klein stated the terrain seemed to be fairly flat in the middle of Mr. Grannis's property which would eliminate wind obstruction.

Mr. Grannis agreed. He stated the other issue he had with the proposed ordinance was the number of VAWT's allowed. Although the standard of one per 15 acres would not affect him, he did not see a problem with allowing more than one. He noted an error in the report, stating that a 150 acre parcel would be allowed 10 VAWT's rather than the 15 stated in the report. He added it was his understanding that the VAWT's could be clustered and that the ordinance was not requiring that one VAWT be allowed on each specific 15 acres of his property.

Commissioner Gooch questioned why Mr. Grannis would not utilize the existing ordinance and apply for as many VAWT's as he would like through the conditional use permit process rather than proposing an ordinance for the entire city.

Mr. Grannis replied because of the extra cost involved in getting a CUP. He stated installing VAWT's was not a money-making proposition, but rather a matter of whether you favor alternative energy sources.

Commissioner Gooch stated the information he received claimed it took 10 to 40 years to recapture the investment, which is quite a long time.

Mr. Grannis agreed, stating adding an additional \$3,000-\$4,000 for the CUP process made it even more burdensome.

Commissioner Gooch stated that did not seem like very much to him.

Commissioner Maggi asked for clarification of the \$3,000-\$4,000 CUP fee.

Mr. Grannis replied that was the City application fee plus the cost for a title company to do a property search.

Ms. Botten advised she was unsure of the exact application fee amount, but stated City staff could assist with the neighboring addresses to help reduce the cost.

Mr. Grannis stated he did not think a CUP should be required as anyone wanting a VAWT would have to pay the application fee, escrow, and title search.

Commissioner Gooch questioned whether the proposed ordinance would work for Mr. Grannis as the way he understood it the VAWT's could not be clustered together, but rather only one would be allowed on each 15 acres.

Mr. Grannis agreed that he would like to locate the VAWT's all very close to one another or where the buildings were, and that others would likely want to do the same.

Ms. Botten clarified that the proposed ordinance would allow VAWT's to be placed next to each other, just that the overall number allowed was based on lot size.

Mr. Grannis stated this ordinance should not be written just for him; there were others in the city that may want to install a VAWT and the additional permit fees would greatly increase the cost.

Ms. Botten advised that she had found the information regarding the application fee, and she stated the fee for a single-family residential CUP would be \$296.

Mr. Grannis said he had been told he would be considered commercial because it's a nature center.

Commissioner Maggi asked what the smallest lot size allowed would be in the E-1, E-2, or A districts.

Ms. Botten stated the minimum lot size requirement for E-2 was 1.75 acres, although there could be some non-conforming lots in the city.

Commissioner Klein asked Mr. Grannis if he would run both AC and DC electricity.

Mr. Grannis stated he would leave that up to the electrician.

Commissioner Elsmore asked how many CUP requests the City has received for VAWT's.

Ms. Botten replied none that she was aware of.

Chair Hark closed the public hearing.

Planning Commission Discussion

Chair Hark stated he supported the request. He advised that he stood next to the VAWT's at 1010 N. Dale and did not hear any noise. He stressed that the propeller turbines had some noise associated with them and he wanted to make sure people were not getting those confused with the vertical axis turbines. He advised some of the benefits of VAWT's were that they did not make noise, they required much less wind to operate, and they could be put in tight spaces. VAWT's were less efficient, however, than the propeller types. He stated a person would not invest in a VAWT to get a return on electricity because the payback was so minimal and therefore he understood Mr. Grannis's concerns about the cost of a CUP. Chair Hark stated it was smart for the City to get ahead of the curve on this. He suggested they have a debate not on the merits of wind power, but rather on what the appropriate density should be.

Commissioner Maggi stated she was a big proponent of alternative energy sources, but she questioned why the City was looking at only one source of wind energy instead of evaluating all wind opportunities at the same time. She wanted to make sure they were stepping back as a Commission and doing their due diligence around the process.

Chair Hark stated Commissioner Maggi raised a valid point, however, on the other hand one could argue that they should be dealt with separately as vertical axis and propeller turbines were quite different.

Commissioner Maggi stated what she thought was important about the CUP process was that the neighbors were notified and given an opportunity to voice their opinion. She stated most residents were likely in support of alternative energy sources; however, a wind turbine next door might be a different discussion.

Chair Hark stated a public hearing notice was published for this request and yet no one came to tonight's meeting.

Commissioner Elsmore stated most people do not necessarily read the public notices.

Commissioner Lissarrague asked if a representative from Minnesota Wind Technology had been invited to address the Council.

Ms. Botten replied they had not.

Commissioner Lissarrague stated it was his understanding that Grand Marais invited a representative from Minnesota Wind Technology to address their questions. He was concerned about the proposed density, stating if this were to go through as proposed there could be 42 – 52 foot wind turbines in his area alone. In addition, he was concerned about what would happen when the VAWT's were no longer in use, who would police them to ensure they were being used on a yearly basis, and how would they be disposed of when becoming inoperable and who would pay for that.

Chair Hark advised most of those questions were addressed in Item G.

Commissioner Klein replied that did not necessarily guarantee that is what would happen.

Commissioner Lissarrague stated he felt they were moving too fast on VAWT's. He recalled an issue a few years back regarding outdoor wood boilers, stating that was not thought through properly and it took years to correct. He stated his neighborhood had five acre parcels, but he would not want a VAWT on his or his neighbors' property. He stated he did not want the countryside to look like southwestern Minnesota or I-35 through Iowa.

Chair Hark asked what Commissioner Lissarrague thought was an appropriate density.

Commissioner Lissarrague replied in his opinion there should be a six acre minimum with a 300 foot setback. He stated he did not have a problem with Mr. Grannis having several of these on his property as long as they did not become a distraction to his neighbors. Although the ones at 1010 N. Dale were quiet, he was concerned there could be other units that were not. Although the noise level of a lawnmower was acceptable for an hour or so, he would not want to hear it 24/7.

Commissioner Elsmore expressed concern that since her short time on the Planning Commission this was the second time Mr. Grannis had requested an ordinance amendment that was drafted specific to the Grannis property. She stated if the City had been overrun with vertical axis CUP requests it would make sense to do an ordinance, however, staff has stated there were no other requests to their knowledge. She felt that writing an ordinance based on one citizen's need seemed inappropriate, and she had the same issue with the previous shooting range request. She advised that the public should be made aware of this request and she felt it was unreasonable to say that because residents did not read the public notice in the local newspaper that their voice did not deserve to be heard. She hoped the City would find a way to help Mr. Grannis, perhaps by allowing him to apply for the single-family residential CUP rather than commercial, but she did not support the proposed ordinance.

Commissioner Klein stated he did not feel an ordinance was necessary, he had many questions about who would service and repair the VAWT's, what the cost would be, etc., and stated if there were a lot of these in the City it could be unattractive.

Commissioner Gooch stated Mr. Grannis would like to install vertical axis wind turbines and he could do so by applying for a CUP. Mr. Grannis stated he was concerned about the cost. Staff has informed us the cost for a residential CUP would be \$296; therefore, cost should no longer be an issue. Commissioner Gooch stated the way he hears it is that the intent for requesting VAWT's be a permitted use could be to circumvent notifying the neighbors as they may have an issue with it. Until there are streams of people requesting similar turbines, Commissioner Gooch did not see the purpose of a City ordinance and he suggested Mr. Grannis go through the CUP process using the existing regulations.

Chair Hark stated he supported the ordinance request and did not believe there was anything nefarious going on. He agreed that the three zoning districts identified were appropriate for VAWT's and that the cost of a CUP was prohibitive. He also felt it unlikely there would be many requests for them in the City.

Commissioner Simon stated rather than changing the ordinance she thinks the City should educate the public first about the various wind turbines through the *Insights* newsletter, open houses, etc. and then perhaps discuss some changes. She stated when she first heard about these she envisioned the propeller type turbine and felt they would be noisy. She visited 1010 N. Dale; however, and heard no noise. As it currently stands she would vote no because it was for one

particular person and she believes the public needs to be more informed. She added that no one in her neighborhood receives the City's official newspaper, the *Southwest Review*, unless they purchase a subscription.

Commissioner Elsmore thanked staff for their work on this request, stating no one was saying it was a horrible idea, just that the ordinance may not be needed at this time.

Planning Commission Recommendation

Motion by Commissioner Elsmore, second by Commissioner Maggi, to deny an ordinance amendment to Title 10 of the City Code (Zoning Ordinance) to allow vertical axis turbines in the A, E-1, and E-2 zoning districts based on there being no direct need and that the problem that was put forth could be corrected based on how the City ordinances were currently written.

Commissioner Lissarrague stated if the City moved forward with things such as this he would encourage City Council to invite representatives of the technologies involved to address them so they and the public could ask questions. He stated they do not know enough about systems such as this and without further information he anticipated problems.

Commissioner Klein encouraged Mr. Grannis to move forward and install VAWT's using the CUP process. He stated perhaps the City could help with the cost by allowing him to be treated as residential rather than commercial, and he advised this could be beneficial to the City as the public could then see what they looked like and how they worked.

Chair Hark invited Mr. Grannis to give some final comments.

Mr. Grannis clarified that he did not originally ask that this be something that applied only to him. He stated some members of the Council did not favor alternative energy and were against doing anything that was going to be broader and they directed it to go in the way being proposed. He stated he was done fighting for everybody else and if this was the only way he could get what he wanted he would go along with what was recommended. He stated he agreed with the Commission that all types of alternative energy ought to be considered. He advised that if the City would allow him to pay the fee for a residential CUP as opposed to a commercial that would make a difference.

Commissioner Gooch stated the comment he had been hearing about people not being in favor of this ordinance because they did not support alternative energy was an untrue statement. He stated the City Code already allows this to happen, so this is not a vote against alternative energy but rather a vote against a particular ordinance that changes the way the City approves these.

Motion passed (6/1 – Hark). This item goes to the City Council on August 26, 2013.

The meeting was adjourned by unanimous vote at 8:20 p.m.

Respectfully submitted,

Kim Fox
Recording Secretary