

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, March 5, 2019 – 7:00 p.m.
City Hall Chambers - 8150 Barbara Avenue

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

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

Commissioners Absent: Brett Kramer (excused)

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

APPROVAL OF MINUTES

The minutes from the February 19, 2019 Planning Commission meeting were approved as submitted.

JAMES VANBUSKIRK - CASE NO. 19-06V

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a vacation of existing drainage and utility easements on either side of the shared lot line between Lots 1 and 2, Block 1, Rich Valley Ponds and a variance to allow an accessory structure larger than the 1,600 gross square foot maximum, for property located at 9215 Rich Valley Boulevard. 4 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the applicant owns two parcels of land zoned E-1 with a total of 4.87 acres. The applicant is proposing to construct a 2,382 two-story gross square foot accessory structure. There is currently one single-family home on the property and no other detached structures. The applicant would like to construct the accessory building on the vacant parcel. City code does not allow an accessory building on a property without a principle structure; therefore, the parcels would be required to be consolidated, which would be done administratively. With the lot consolidation, vacation of the existing internal drainage and utility easement should be done. Prior to 2006 all lots in the City less than 5 acres in size were allowed only one detached structure up to 1,000 square feet. City Council reviewed the ordinance at that time and amended it to allow lots 2.5 to 5 acres in size to have one structure with a total of 1,600 gross square feet. Lots greater than 5 acres would be allowed an accessory structure up to 2,400 gross square feet. The applicant stated that the additional size he is asking for is for his own personal use and to store his personal items. The closest neighboring home would be over 300 feet away from the proposed accessory structure. The two lots were platted in 2006; both lots are considered buildable lots. The applicant does not have any intention on building a second home or selling the parcel. Staff does not believe the applicant identified a practical difficulty and therefore recommend denial of the variance request.

Staff recommends approval of the vacation request.

Chair Maggi questioned what would happen if someone asked to split the lots again sometime in the future.

Ms. Botten replied that it would be difficult to split the lots again as it would be hard to put a house on the second lot without first removing the proposed accessory structure.

Commissioner Scales asked if the applicant would not need a variance if he owned .13 more acres, thereby hitting the 5-acre threshold.

Ms. Botten replied in the affirmative.

Commissioner Simon questioned where the applicants would get the water for the sink and toilet in the proposed accessory structure.

Ms. Botten replied that the applicant could better address that question.

Chair Maggi asked staff to address the rules regarding having a home business in this structure.

Ms. Botten advised that home occupations were not allowed in accessory structures.

Commissioner Robertson questioned having a bathroom in the accessory structure in regard to residential use.

Ms. Botten replied that bathroom facilities are allowed in accessory structures, and although it is not their intent, the applicant would be allowed to convert part of the building into an ADU if they met the criteria.

Commissioner Wippermann asked for the history of why these two parcels were zoned E-1 when the surrounding properties were zoned Agricultural and questioned whether the size requirements would be different had this been zoned Agricultural.

Ms. Botten explained that the property was changed to E-1 in 2006 when the previous owner requested the lot split and rezoning. The maximum size requirements for an accessory building are the same for Agricultural as they are for E-1.

Opening of Public Hearing

James VanBuskirk, 9215 Rich Valley Boulevard, introduced Mike Peterson, his potential builder, and advised that they were available to answer any questions.

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

Mr. VanBuskirk replied in the affirmative. He displayed an aerial photograph of his lots as they are currently divided. He stated the previous owners planned to build another home on the smaller lot on a spot 30 feet from his home, but his intention was to combine the two lots and build an accessory structure in that location instead. He showed a photo of his home, stating his intent was to design the accessory structure to match his home aesthetically with a high roof pitch. He presented various models illustrating the process of how they arrived at their current plan. He first started with a line of garage bays with a high-pitched roof that matched his home. This high-pitched roof creates a bonus room within the rafter system which allows for extra space as well as increased energy efficiency. Because he is contemplating purchasing a motor home, he then modified the garage plan to include a deeper bay for a motor home. Unfortunately, this left the

motor home bay partially uncovered. They then added some gables on the front to further match the home; however, the motor home bay was still partially uncovered. They then put a roof on the uncovered portion to match the pitch of the rest of the roof; however, the only way to get it to fit correctly was to raise it up and flatten out the roof. Because there is now a small wall, the space inside counts as gross square footage and puts him over the 1,600 gross square footage maximum. The two small gables also count towards the total square footage but he wants them to remain so the building will cosmetically match the house. He pointed out that his lot is 4.87 acres in size, and if his lot was .13 acres larger his proposed structure would comply as he would be allowed 2,400 gross square feet rather than 1,600. He stated that if he does not use the second-story space he would meet the 1,600 gross square foot maximum; however, it seems silly not to use it. In his opinion the community is better off having a 5-acre parcel with his home and the proposed accessory structure rather than having two houses crammed together on 2.5 acre lots. He advised that were his lot 59 inches wider he would have 5 acres and would not need a variance. He displayed a Dakota County map showing that his right-of-way on Rich Valley Boulevard was much larger than his neighbors' and he noted that if his right-of-way was in line with his neighbors, he would have 5 acres. He questioned whether anyone knew the history of why that was.

Commissioner Scales noted that they have seen other situations like this, including his own lot.

Commissioner Simon stated the right-of-way was likely increased during the lot split process in 2006; perhaps because Rich Valley Boulevard may eventually be widened. She then asked the applicant where they would be getting the water from for the accessory structure.

Mr. VanBuskirk replied that the water would be extended from the house. He advised that it was not meant to be set up as a residence, but rather as a place for him to store his equipment/vehicles and practice his hobbies.

Commissioner Robertson asked if anyone could confirm Mr. VanBuskirk's statement that his lot lines differed from his neighbors in regard to the right-of-way.

Mr. VanBuskirk replied that all the plat maps he has seen show the same anomaly.

Commissioner Robertson asked for confirmation that Mr. VanBuskirk did not own a motor at this time and was asking for something that as of today was not yet a reality.

Mr. VanBuskirk replied in the affirmative.

Commissioner Robertson asked for clarification regarding Mr. VanBuskirk's statement that this would all be legal if he were not to use a certain percentage of the bonus space.

Mr. VanBuskirk stated his understanding was that the code states if the space on the second floor is within the rafters it does not count as square footage. Therefore, they are building the main floor at 1,600 square feet and the space between the rafter system is not counted.

Mr. Hunting clarified that the back roof of the second-story all counts towards the gross square footage, which is what kicks it over the 1,600 square foot maximum. Some areas of the other roof system may count towards the total as well.

Chair Maggi closed the public hearing.

Planning Commission Discussion

Commissioner Niemioja recommended approval of the vacation. She felt the proposed building

complimented the property and she would be supportive of the variance if there was practical difficulty; however, she could find none. She was reluctant to use the increased right-of-way as a practical difficulty and stated perhaps City Council could approve it as they have more leeway.

Commissioner Weber stated that according to the Dakota County website there was a gap between the applicant's property and the one east of it. He noted that if that property was added to the subject property it would be over 5 acres.

Mr. Hunting stated any gap in the legal descriptions would have been found in the previous subdivision plat that was surveyed and recorded, so likely the property would not belong to the applicant.

Commissioner Weber asked if the applicant could legally build a 2,400 square foot residence on the smaller property.

Ms. Botten replied in the affirmative, stating it would have to be the principal use residence and it would have to meet setbacks, impervious surface maximums, have a separate well and septic, etc.

Commissioner Scales pointed out again that the applicant is only .13 acres under the 5-acre threshold. In his opinion the proposed structure was a great addition to the neighborhood, and he would support it if he could find a practical difficulty. He noted there were many other things that happened to this property over the years, such as the increased right-of-way.

Commissioner Lissarrague stated he did not want to deny the request; however, there was no practical difficulty so he asked if instead he could abstain from voting.

Chair Maggi replied in the affirmative. She stated the challenge they have as a commission is that even though they understand that this is a reasonable request that is very aesthetic to the neighborhood, they are bound as a commission to follow the rules for approval of a variance; one of which is the need for a practical difficulty. She noted that City Council has greater latitude than the Planning Commission.

Commissioner Scales asked if they could make a motion to deny with a recommendation to City Council to approve the request.

Chair Maggi replied that the Planning Commission's role was to make a recommendation based on land use.

Commissioner Weber recommended the Planning Commission vote separately on the two requests.

Commissioner Robertson stated she did not support the variance request due to lack of a practical difficulty, the fact that the existing home already has a lot of bonus space, and she questioned the aesthetics of having a large accessory structure situated next to the house.

Planning Commission Recommendation

Motion by Commissioner Weber, second by Commissioner Scales, to approve the request for a vacation of existing drainage and utility easements on either side of the shared lot line between Lots 1 and 2, Block 1, Rich Valley Ponds, for the property located at 9215 Rich Valley Boulevard.

Motion carried (8/0).

Motion by Commissioner Simon, second by Commissioner Robertson, to deny the request for a

variance to allow an accessory structure larger than the 1,600 gross square foot maximum, for property located at 9215 Rich Valley Boulevard, due to lack of a practical difficulty.

Motion carried (8/0). This item goes to the City Council on March 11, 2019.

DISCOUNT STORAGE – CASE NO. 18-55CAZ

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a rezoning of the property from A, Agricultural to B-3, General Business and a comprehensive plan amendment from RDR, Rural Density Residential to RC, Regional Commercial, for the property located at 10805 Rich Valley Boulevard. 12 notices were mailed.

Presentation of Request

Allan Hunting, City Planner, explained the request as detailed in the report. He advised that City Council reviewed the Discount Storage request for mini-storage in January and their decision seemed to be mixed. The applicant then suggested a change to commercial instead of I-1. Council then directed staff to hold a new public hearing to determine if a commercial land use and zoning would be more appropriate. Mini-storage is allowed as a conditional use only in the B-3 district, and the Community Commercial land use district is the appropriate district for B-3 zoning. Staff believes this would be spot zoning, the proposed change would not be consistent with the principles and policies of the present and proposed comprehensive plan, and therefore, staff does not support the request.

Commissioner Weber asked if the Flint Hills properties to the west were combined into one PID.

Mr. Hunting replied that his mapping showed them as separate parcels.

Commissioner Lissarrague asked how many storage facilities there were in the City.

Mr. Hunting replied 11 or 12.

Commissioner Lissarrague noted that other cities have put a hold on allowing additional storage facilities and asked if Inver Grove Heights had considered doing the same.

Mr. Hunting replied that Council has not specifically requested that that issue be looked at.

Commissioner Lissarrague encouraged the City to have a discussion regarding the expansion of this particular industry.

Mr. Hunting advised that could be made part of the Commission's recommendation.

Commissioner Simon asked if staff heard from any neighboring property owners.

Mr. Hunting replied that they only heard from one neighbor, the Lindell's.

Opening of Public Hearing

Paul Saver, 7845 Boyd Court, advised that he was available to answer any questions.

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

Mr. Saver replied in the affirmative. He advised that when the first request went to City Council,

they were not opposed to the project itself, but were concerned about changing the zoning to I-1 in regard to the potential for the lot to be sold for a more industrial use. However, he was not interested in selling the property. In his opinion the rural density in this area is a moot point since 746 of the 800 acres south of this property are owned by Flint Hills, who has no intention of selling.

Chair Maggi asked if staff could confirm Mr. Saver's statement regarding Flint Hills owning many properties in the area.

Mr. Hunting replied in the affirmative, stating that Flint Hills has purchased property for a buffer from the refinery.

Chair Maggi asked where the Flint Hills properties were located.

Mr. Hunting showed the general area of where Flint Hills owned a number of properties.

Mr. Saver stated that in total Flint Hills owns 3,000 acres between Cliff Road and County Road 42.

Commissioner Niemioja asked the applicant when he purchased the subject property.

Mr. Saver replied three years ago.

Commissioner Niemioja asked if the applicant was aware the property was rural density residential at the time of purchase.

Mr. Saver replied that his appraiser and the bank were told at the time of purchase that a portion of the property was commercial. He noted that Johnson Excavating has been operating on the property since 1962 and they purchased both the company and the property.

Commissioner Niemioja asked if anyone at the City or County represented this property as commercial.

Mr. Saver replied his understanding is they were told that by both entities.

Commissioner Niemioja asked if Mr. Saver had names of the individuals that were contacted.

Mr. Saver replied that he did not but was in the process of getting statements from the appraiser and bank.

Chair Maggi asked if Johnson Excavating was still operating on the property.

Mr. Saver replied in the affirmative. He advised that baby boomers are now moving into multi-unit residential housing and need a space to store their toys. He noted that he personally owned eight collector cars and four recreational vehicles.

Commissioner Lissarrague replied that while he understood Mr. Saver's point, it was unusual to have that many vehicles. He stated that baby boomers would eventually cease to need storage space and the City would be left with numerous storage facilities. He suggested the City do its due diligence to see how this issue applies to us as a city.

Mr. Saver asked Commissioner Lissarrague if he knew how many undeveloped acres there were in the City.

Commissioner Lissarrague replied he was unsure but hoped they would attract more families to the

City.

John Larson, 1938 – 105th Street East, advised that he owned a ten-acre parcel north of the subject property. He was opposed to changing the zoning to B-3, stating it should remain rural density residential as it has for over 40 years and is proposed to continue to be in the 2040 Comprehensive Plan. He was concerned about allowing spot zoning, stating once a precedent was set others in the area might ask for a rezoning as well.

Scott Lindell, 10895 Barnes Avenue, stated he owns the 12-acre parcel southeast of the subject property. He currently has a horse barn on the property and is planning to build a home there this summer. The site plan he saw of the proposed storage area showed 800 parking spaces. In his opinion having hundreds of RV's parked in the proposed storage area would severely change the character of the neighborhood and would look out of place in the middle of the prairie. He was concerned about the precedent this would set for other parcels to get rezoned, stated the proposed storage lot would not bring employment and was not appropriate in this area, and he was concerned about stormwater runoff from 17 acres of gravel or asphalt. He advised that he also leases horse pastures from Flint Hills to the north and south, one of which would be right up against the proposed storage area.

Loren Scherff, 1320 – 105th Street East, stated he was opposed the request as he does not want to look at 17 acres of motor homes, it would provide very little in tax base, he was concerned about spot zoning, and he does not think it makes sense to remove one lot from the large area guided for Rural Density Residential.

Chair Maggi closed the public hearing.

Planning Commission Discussion

Chair Maggi stated this area has already been addressed in the recent comprehensive plan process where it was determined that this area of the city should remain rural density residential. She was also concerned about spot zoning.

Commissioner Niemioja stated it was unfortunate if anyone inaccurately misrepresented this property as commercial; however, she did not think it was something that City Council could make right by approving a spot zoning and thereby changing the nature of this area. She did not see anything in the City's vision and guiding principles to justify the proposed change.

Commissioner Robertson advised that a previous applicant had stated that someone at the City told him he could exceed the boundaries of a driveway. However, unless he was able to provide identifying information of the individual who gave him this information, the Commission could not consider it because of the anonymity. Given the anonymity in this case she found no reason to approve the request.

Commissioner Wippermann stated he did not support the request as the comprehensive plan has clearly stated for years that this area should remain rural density residential; this type of project would clearly change the character of the area.

Commissioner Simon was opposed to the request, stating this type of business belonged along a highway rather than in the middle of green space such as this and she could not find a reason to justify changing this to anything other than its current designation.

Planning Commission Recommendation

Motion by Commissioner Scales, second by Commissioner Wippermann, to deny the request, for the reasons stated in the staff report, for a rezoning of the property from A, Agricultural to B-3,

General Business and a comprehensive plan amendment from RDR, Rural Density Residential to RC, Regional Commercial, for the property located at 10805 Rich Valley Boulevard.

Motion carried (8/0). This item goes to the City Council on March 11, 2019.

OTHER

Mr. Hunting advised that the March 19, 2019 Planning Commission meeting has been cancelled.

The meeting was unanimously adjourned at 7:59 p.m.

Respectfully submitted,

Kim Fox
Recording Secretary