

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, August 20, 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
Joan Robertson
Jonathan Weber
Tony Scales
Brett Kramer
Annette Maggi
Dennis Wippermann

Commissioners Absent: Pat Simon (excused)

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

GREGORY MICHAEL DAMIANI – CASE NO. 19-30CV

Reading of Notice

Commissioner Scales read the public hearing notice to consider the request for a conditional use permit to allow sheet metal siding on an accessory building in the E-1, Estate Residential zoning district and a variance to allow a 2,751 square foot accessory building whereas 1,600 square feet is the maximum size allowed, for the property located at 8709 Ann Marie Trail. 45 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the applicant would like to construct a 2,751-square foot accessory building on his property whereas 1,600 square feet is the maximum allowed. The property is 4.1 acres in size and there is currently a 585-square foot detached structure on the property; the proposed structure would be added on to this building. The sides of the building facing the house would be constructed with lap siding and the remainder of the building would be sheet metal siding, which requires a conditional use permit. The proposed structure complies with the CUP criteria. Regarding the variance review, city code allows one detached accessory building up to 1,600 square feet on lots 2.5-5 acres in size and two structures up to 2,400 gross square feet in size on lots 5 acres or greater. The applicant has stated that the additional size is needed to store his own personal items. Staff believes that allowing a structure this size would set a precedent for lots greater than 2.5 acres and the proposed size of the structure may be considered a convenience to the applicant rather than a practical difficulty. Staff recommends denial of the variance request as it does not meet the variance criteria, but they recommend approval of the conditional use permit for metal siding for a structure up to 1,600 square feet in size. Ms. Botten noted that the applicant received approval for a 2,200 square foot structure in 2014; however, the applicant did not construct the building and the variance expired two years after the approval date. Staff heard from one neighbor who had general questions about the request.

Chair Maggi asked if and where there was a second entrance point to the property.

Ms. Botten replied that there were two entrance points on Ann Marie Trail. The property has a

shared driveway easement with the property to the north.

Commissioner Niemioja advised that she reviewed the minutes from Mr. Damiani's 2014 request, and it was her understanding that at the time no practical difficulty was found but it was suggested by a Councilmember that it be taken on a case-by-case basis.

Opening of Public Hearing

Gregory Michael Damiani, 8709 Ann Marie Trail, advised that he purchased the home about five years ago, has done extensive remodeling on the house, and added a sunroom and an attached garage. The main driveway on this property is an easement driveway to the north. He removed an existing tuck under garage as it did not go with the style of the house and he preferred it be converted to living space. Because of this he is cramped for space. He plans to remove an existing driveway to bring him into compliance with impervious surface. After being granted approval of a 2,200 square foot building, he determined that a building that size did not align with his needs. He is a woodworker by trade and part of the proposed building is going to be a 24' x 42' woodshop for his own personal use. He needs a larger structure than was requested in 2014 as he needs space to mill and dry his own lumber, to store his vehicles and property, and to allow him to have a pull through feature for the vehicles that he triple-tows which total 67 feet. Extending his shop allows the pole shed to line up directly with the driveway. He advised that he has a heavily wooded lot and the proposed structure would only be visible from the neighbor he shares a driveway with. He noted that the northerly right-of-way of Ann Marie Trail abutting his property makes his property unique and he believes that adding that missing space would make his lot larger than the 4.1 acres.

Chair Maggi asked the applicant why he did not build the structure in 2014.

Mr. Damiani replied he was doing extensive work on the house at that time, he had health issues, and it was not fitting.

Commissioner Lissarrague asked the applicant where his main woodworking shop was.

Mr. Damiani replied that he retired three years ago and would do his woodworking at home.

Commissioner Robertson asked the applicant if he planned to sell the products made in his woodworking shop.

Mr. Damiani replied his products were not for sale; just for personal use.

Chair Maggi closed the public hearing.

Planning Commission Discussion

Chair Maggi stated that often applicants come in requesting to go up one level in size and this is actually beyond. They also need to find a practical difficulty.

Commissioner Niemioja quoted the Council minutes from the 2014 decision where Councilmember Mueller stated the request was not affecting the neighbors and they could take this on a case-by-case basis. Councilmember Madden agreed with both points. In her opinion a practical difficulty was still needed, and she was concerned about the precedent issue with taking this on a case-by-case basis. She stated it would be good to know if the lot was actually closer to 5 acres because of the missing right-of-way noted by Mr. Damiani. If the lot was truly 4.1 acres she does not believe there is a practical difficulty.

Commissioner Botten stated that according to the Dakota County website and the Certificate of

Survey the lot is 4.1 acres in size; however, there are some unusual property lines along Ann Marie Trail.

Commissioner Lissarrague asked how far away the closest neighbor was.

Ms. Botten replied that the closest structure was the house 160 feet to the east.

Commissioner Robertson stated that 4.1 acres was significantly less than 5 acres, and a 2,751 square foot structure would not be allowed even if the lot was 5 acres. She was concerned about setting a precedent and questioned how much merit they should put on the need for storage of recreational and hobby items.

Commissioner Weber advised out that historically the City has given people variances for larger structures on lots less than 4 acres, and he would be more comfortable approving a 2,400 or 2,200 square foot structure like was originally approved in 2014. The County does show questionable right-of-way cuts on this property and he noted that a variance to allow a larger structure was approved recently for a property on Rich Valley Boulevard. The practical difficulty in that instance was the irregular right-of-way. He questioned whether the property would be closer to 5 acres if the missing right-of-way was added in.

Commissioner Lissarrague stated 2,751 square feet would still be over the maximum allowed.

Commissioner Weber stated the City approved a 2,400 gross square foot structure on the Rich Valley Boulevard property, which was secluded like this property.

Commissioner Robertson stated she was concerned about taking these on a case-by-case basis, as suggested by Councilmembers Mueller and Madden, because there is always something that in individual can argue that makes their situation unique. She would support a variance to allow the 2,200 square feet that the applicant was approved for in 2014 but nothing more than that because of lack of a practical difficulty and precedent setting concerns.

Chair Maggi struggled with overriding the County records on the property size, noting that the applicant could have gone to the County and argued their case before coming here.

Commissioner Scales stated unless they can come up with a practical difficulty it should be turned over to the Council to decide.

Planning Commission Recommendation

Motion by Commissioner Weber, second by Commissioner Niemioja, to approve the request for a conditional use permit to allow sheet metal siding on an accessory building in the E-1, Estate Residential zoning district, with the conditions listed in Alternative A, for the property located at 8709 Ann Marie Trail.

Motion carried (8/0).

Motion by Commissioner Robertson, second by Commissioner Wippermann, to deny the request for a variance to allow a 2,751 square foot accessory building whereas 1,600 square feet is the maximum size allowed, for the property located at 8709 Ann Marie Trail, due to lack of a practical difficulty.

Motion carried (7/1 – Weber). This item goes to the City Council on September 9, 2019.

SCOTT AND EVA SOLOMONSON – CASE NO. 19-33ZPC

Reading of Notice

Commissioner Scales read the public hearing notice to consider the request for a rezoning of the property from B-3, General Business to I-1, Limited Industry, a comprehensive plan amendment to change the designated land use from CC, Community Commercial to LI, Light Industrial, a conditional use permit to allow a contractor's yard on the property, and a variance from the front yard setback requirement, for the property located at 2660 – 50th Street. 41 notices were mailed.

Presentation of Request

Allan Hunting, City Planner, explained the request as detailed in the report. He advised that the applicant is proposing to develop the site as a landscape design operation which would be considered a contractor's yard by the zoning definition. Contractor yards are allowed only in the I-1 district as a conditional use, which is why the applicant is requesting to change the land use from B-3, General Business to Light Industrial and the zoning to I-1, Limited Industry. The applicant is also proposing a new shop building which will require a setback variance. The subject property is surrounded by MNDOT right-of-way on the east and west, I-494 on the south, and multi-family residential on the north. The property is also heavily wooded and drops continually down to I-494. The topography and trees make the site impractical for many commercial or industrial uses. The applicant plans to remove the existing garage and race it with a 3,200 square foot shop building that will be used to house company vehicles. The variance to allow a 10-foot setback would leave the building approximately 110 feet from Blaine Avenue. Staff believes that a practical difficulty can be found in the right-of-way along Blaine Avenue at this location being significantly wider than a standard boulevard, as well as the challenging topography. Staff recommends approval of the request. He noted that no building permits could be issued until the Met Council and City Council approved the 2040 Comprehensive Plan. Staff received one email from a resident who was opposed to the request.

Chair Maggi asked staff to discuss the elevation of the stormwater pond being built to the east of the subject property.

Mr. Hunting was not aware of details of the MNDOT pond in question but stated the lot continues to drop as you go easterly or southerly.

Commissioner Scales asked why the right-of-way along Blaine Avenue was so wide.

Mr. Hunting replied he was not sure.

Commissioner Wippermann asked what other uses would be allowed in the I-1 zoning district.

Mr. Hunting replied light industrial type uses such as warehousing, a contractor's yard, etc.

Chair Maggi asked when the applicant purchased the property.

Mr. Hunting replied fairly recently.

Opening of Public Hearing

Scott Solomonson, owner of Living Space Landscapes, 540 Junction Lane, Mendota Heights, advised he was available to answer any questions.

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

Mr. Solomonson replied in the affirmative. He stated this property is perfect for running his

landscaping business and storing his equipment, especially its proximity to Gertens.

Chair Maggi asked the applicant when he purchased the property.

Mr. Solomonson replied June of 2018.

Commissioner Wippermann asked the applicant to describe the proposed demonstration garden.

Mr. Solomonson replied it was a place for him to place plants and see how they grow long-term.

Commissioner Wippermann asked if customers would be coming to this location.

Mr. Solomonson replied there would be very little customer interaction at the site, stating at his current location he has had approximately two customers come to the location in 7 years.

Barb Dietzman, 2506 – 49th Street E, stated she was concerned about having businesses, and their associated traffic, in this residential area.

Chair Maggi closed the public hearing.

Planning Commission Discussion

Commissioner Weber stated in his opinion this was a good use of the property and would likely generate less traffic compared to other uses that could go in there.

Planning Commission Recommendation

Motion by Commissioner Weber, second by Commissioner Scales, to approve the request for a rezoning of the property from B-3, General Business to I-1, Limited Industry, a comprehensive plan amendment to change the designated land use from CC, Community Commercial to LI, Light Industrial, a conditional use permit to allow a contractor's yard on the property, and a variance from the front yard setback requirement, for the property located at 2660 – 50th Street, with the conditions and practical difficulty as listed in the report.

Motion carried (8/0). This item goes to the City Council on September 9, 2019.

GATEWAY CHRISTIAN CHURCH – CASE NO. 19-31PDA

Reading of Notice

Commissioner Scales read the public hearing notice to consider the request for a planned unit development amendment to amend the Arbor Pointe PUD Ordinance to allow for a church to be a permitted or conditional use within the PUD, for property located at 9079 Buchanan Trail. Twelve notices were mailed.

Presentation of Request

Allan Hunting, City Planner, explained the request as detailed in the report. He advised that the applicant wants to purchase the vacant Advanced Auto building and is requesting an amendment to the Arbor Pointe PUD to allow churches to be added to the list of allowed uses in the CSC district. If the amendment is successful, they would have to come back for a site plan approval. Due to a variety of reasons there are several vacant buildings in Arbor Pointe. Recently many of those vacancies have been filled and staff thinks we are going in the right direction. His report lays out some pros and cons for the project. From staff's point of view, a church use takes away the potential retail uses for the building, would make the property tax exempt, and the intent of the Arbor Pointe Ordinance appears to be designed heavily on retail and service-oriented businesses.

Staff does not support the ordinance change.

Chair Maggi asked staff to explain the tax differentiation between the school that went into the former Rainbow building and the church situation.

Mr. Hunting advised that the school is leasing the building from a private owner who is still paying commercial taxes. Gateway Church would like to purchase the property and they would be tax exempt.

Chair Maggi stated her understanding was that the Planning Commission was not supposed to address financial related issues but rather land use.

Community Development Director Heather Rand thanked Chair Maggi for the clarification, stating the conversation tonight should be about usage. She noted that she visited several housing subdivisions close to this location on National Night Out and was told what they wanted most was more retail, services, and restaurants close by. As staff they are working towards populating Arbor Pointe and Argenta Hills with more commercial services and restaurants. If Council approves the Inver Pointe Business Park it will result in 100-plus employees looking for additional places to shop, eat, etc.

Commissioner Lissarrague appreciated staff's desire for a commercial use; however, with the country potentially heading into a recession he did not think they should pass up this opportunity to bring in a church.

Commissioner Robertson stated one of her concerns is the challenges that exist in Arbor Pointe (i.e. access) that have prevented other businesses from coming in. She is also concerned about the negative impact of having a building sit vacant.

Commissioner Kramer asked staff if there was a minimum parking ratio specifically for churches.

Mr. Hunting replied in the affirmative, stating he believed it was one parking space per three chairs in the main sanctuary.

Commissioner Kramer asked if that was something we could quantify tonight or would it be discussed with the site plan.

Mr. Hunting replied that if the ordinance amendment was successful the parking would be reviewed with the site plan. The applicants; however, have done some analysis already to make sure the site would accommodate their needs.

Commissioner Scales asked if staff was aware of any recent interest for buildings in this area.

Ms. Rand replied that four new businesses recently moved into Arbor Pointe, including That Cooking School, Perfect Ash, Dollar Tree, and Inver Grove Brewery. A benefit of commercial is that it brings traffic to the other retail establishments 6 or 7 days a week whereas a church would typically bring traffic to the area only a couple days a week.

Commissioner Niemioja asked if there was a route to get a church into this space on a temporary basis.

Mr. Hunting replied they could apply for an interim use permit.

Commissioner Weber questioned why the site plan was not being discussed at the same time as

the ordinance amendment.

Mr. Hunting replied they are focusing on whether a church should be allowed in the Arbor Pointe district. This way the church would not have spent a lot of time and money working on plans if the amendment was not successful.

Commissioner Weber stated his biggest concern was that parishioners would use the brewery or other nearby business parking if there was not enough parking at the subject site.

Ms. Rand stated she was less hung up on parking and more concerned about whether churches should be allowed in commercial districts.

Opening of Public Hearing

Pastor Richard Farrell, 531–12th Avenue S, South St. Paul, advised he was available to answer any questions.

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

Pastor Farrell replied in the affirmative. He advised that they have been a church since 2013. The space they currently occupy has been leased and they must leave. They want to stay in Inver Grove Heights and feel this building is perfect for them. They had an architect draw up preliminary plans to make sure the site would work for them. The existing parking would give them 189 sanctuary seats which they feel will be perfect. If needed, they could add a second service on Sundays. This site would be accessible to the residents living on that side of the City, including all the people living in the nearby senior living facility, apartment building, and townhomes. Their vision is to bring that community feel to the south side of Inver Grove Heights and they think it would be beneficial for the City to have a gathering space in this area.

Commissioner Niemioja asked for clarification of the church's office hours.

Pastor Farrell stated they have Sunday and Wednesday services, he and the associate pastor are at the church almost constantly, they have political groups that use their space, worship nights are one Friday a month, and they would be willing to open up the building to others to rent or use to keep the traffic flow going.

Skip Melin, Cushman Wakefield, 3500 American Blvd W, Suite 200, Bloomington, stated he was here on behalf of the property owner, David Flor. He stated this is an economic hardship for Mr. Flor as he has been paying commercial taxes on a vacant building for the past 12 years. He is struggling and this is a viable opportunity for him to do something else. He advised that Crossroads Church went into a former Dollar Tree store in Hastings and this resulted in sales going up 30% in the neighboring Coburns store. Likely the sales will go up at Inver Grove Brewery, Dollar Tree, etc. as well if this church were to go in. He added that there have been discussions with City staff regarding not taking this property off the tax rolls as the church would like to help financially support the police, fire, etc. This church has been in business for five years, they are members of this community, they love the community, and it would be nice to give them a proper home of their own.

Kevin Sethre, 3650–73rd St E, supported the request and hoped Commissioners would consider approval.

Mike Sherman, 6309 Burnham Circle, supported the request.

Vickie Vars, 8755 Coffman Path, stated she lived in Arbor Pointe and was opposed to having a

church in that space rather than retail. She questioned whether the 12 people that were notified were businessowners rather than residents.

Mr. Hunting replied that all property owners within 350 feet of the subject property were notified.

Ms. Vars was disappointed that Arbor Pointe residents were not notified of the public hearing, stating she only found out because the President of the Master Association Board sent a notice to board members. She stated the notice said 'and any variances related thereto' and asked what type of things that might be.

Mr. Hunting replied that is standard language put in all public hearing notices in case a variance comes up that they were unaware of beforehand. Staff was not aware of any variances needed at this point. If the ordinance amendment is successful there could be a variance requested in conjunction with the site plan.

Ms. Vars asked if the church was planning to purchase the property.

Chair Maggi replied in the affirmative.

Ms. Vars asked who would be responsible for plowing and maintaining the road between the church and Dollar Tree store.

Mr. Hunting replied that would not be maintained by the City as it was private land.

Mary Rekuski, 8740 Brunell Way, stated she has lived in Arbor Pointe for 15 years and frequently shops in this area. She has strong concerns about putting a church or political entity in that retail space and does not think any person or entity has the right to change the development plan of a city where so much thought has gone into what that is. The City is just starting to see change in terms of retail coming in and she thinks allowing a non-retail entity into that space will forever change that development. Parking, noise, city services, and roads are issues. She stated that the church's website invited their parishioners to come to tonight's meeting and she wished that Arbor Pointe residents had had the opportunity to organize as well. The website also invited parishioners to walk in the Inver Grove Heights Days parade as a way of exposing the community to Gateway. She questioned why now when they have been a part of the community for six years. She questioned why the church needed to be located in Inver Grove Heights since the sign-in sheet had many addresses from other cities.

Chair Maggi encouraged Ms. Rekuski to communicate to her neighbors in that area to attend the City Council meeting to share their feedback.

Lynn Perkins, 7411 Bolton Way, stated she has lived in Inver Grove Heights for 32 years and thinks the church would be a great benefit to the City. The property has been vacant for 12 years, and the church would be a good service for the community and would bring in people from various communities to shop at the stores that are already here.

Cherie Young, 4632 Nevada Ave N, Crystal, advised that Gateway Christian Church started in Pastor Richard's home and has grown to about 50 parishioners. This church has done a lot of charitable work in the community for those in need. The reason they want to be in Inver Grove Heights is to make a difference, not to grow into a huge church that will take over the retail space. She lived in IGH for several years, her father was a police officer here for 30 years, and they love the community. The church is willing to have conversations regarding taxes as they believe they should help pay for fire and police. Bringing people in from other cities will mean more people eating and shopping at local establishments.

Ann Jaszewski, 1001 Terrace Lane, South St. Paul, stated if the church moves to this location it will bring in people from other cities to shop and eat at local businesses whereas they would not otherwise. She advised that the church has marched in the Inver Grove Heights Days parade for several years, and simply want to improve their presence.

Ms. Perkins stated she has lived in the City for 32 years and has seen the church participating in the parade for 5 or 6 years.

Robert Young, 4632 Nevada Ave N, Crystal, stated a few years ago a bowling alley in a commercial/industrial area of Crystal closed and Cornerstone Church moved in. This is just one example of how a service type entity like a church can coexist in a commercial area.

Chair Maggi closed the public hearing.

Planning Commission Discussion

Chair Maggi reminded Commissioners that the discussion should be about appropriate land use rather than finances. She was conflicted on this as there is a church on Cahill amid retail and they have been very good for the community; however, there is a recent resurgence of storefronts being filled in Arbor Pointe.

Commissioner Niemioja asked if the City could determine the length of an interim use permit.

Mr. Hunting replied in the affirmative.

Commissioner Lissarrague supported the request, stating this area did not have good traffic flow for retail, there are several different entities in that particular area, the building has been vacant a long time, and there is a possibility of another recession so it's a good time to fill the space.

Commissioner Wippermann struggled with differentiating between a church and a school and the precedent that was established with the school. Both the church and the school are public uses, and both have the potential to be tax exempt, as the school could purchase the property which would take it off the tax rolls.

Commissioner Weber stated in his opinion business begets business and currently there are several new businesses that came in, which improves the chance of filling that building with retail. If this was six months from now and the brewery and Dollar Tree were well established and this building was still vacant he would think about it differently. Also, Commissioners looked extensively at this area during the 2040 comprehensive plan update and approving this would go against what was just approved.

Commissioner Lissarrague asked if there was another vacant building on Broderick and Buchanan.

Commissioner Weber replied in the affirmative, stating the bank building was vacant except for an insurance agent.

Commissioner Niemioja thanked everyone for their feedback. She supported providing different types of services, bringing people to IGH from other cities who would likely visit local restaurants, services, and retail, and she believes people are shopping online more rather than in brick and mortar. She liked the concept of doing an interim use permit on this property and having a little control but understands that a seller would not want that condition on their property. She stated that staff is following the law regarding neighbor notice; however, it is not a perfect system and she encouraged Arbor Pointe residents to notify their neighbors of this request. She was conflicted on

this request as well but noted there is a lot of vacant retail and perhaps they need to think differently about filling it.

Commissioner Robertson supported the request, stating that given the challenges of that area, particularly access, she was less hopeful about getting retail in this building. Also, bringing people from elsewhere to our community creates the potential for those people to visit other businesses in the area.

Commissioner Scales stated he liked the idea of retail in that space but thought they should take advantage of a request in front of them rather than hoping something better will come. He believes a church would be a good use of the property, based on the precedent set by allowing the school to go in the former Rainbow store. The property has sat vacant for many years and he thinks the use of that area has changed to a mixed use by allowing the school in.

Chair Maggi stated while she respects the idea of the City trying to bring in retail, there are empty storefronts available in other parts of the City (Upper 55th Street, Argenta Hills, etc.).

Mr. Hunting advised that if there is a motion to approve the ordinance amendment, Commissioners need to decide if a church should be allowed as a permitted or conditional use in the B-3 district.

Commissioner Weber asked if the conditional use permit would be considered at the same time as the site plan, which would provide a better picture of their proposal.

Mr. Hunting replied in the affirmative.

Planning Commission Recommendation

Motion by Commissioner Weber, second by Niemioja, to approve the request for a planned unit development amendment to amend the Arbor Pointe PUD Ordinance to allow for a church to be a conditional use within the PUD, for property located at 9079 Buchanan Trail.

Motion carried (8/0). This item goes to the City Council on August 26, 2019.

The meeting was unanimously adjourned at 8:28 p.m.

Respectfully submitted,

Kim Fox
Recording Secretary