PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, April 18, 2023 – 7:00 p.m.
City Council Chambers – 8150 Barbara Avenue

1. CALL TO ORDER

Chair Niemioja called the Planning Commission Meeting to order at 7:00 p.m.
The Pledge of Allegiance was recited.

2. ROLL CALL

Commissioners Present:	Elizabeth Niemioja (Chair) Scott Clancy (Vice Chair) Robert Heidenreich Joan Robertson Jonathan Weber Dennis Wippermann Kate Challeen
Commissioners Absent:	Jaime Besser (excused) Vacant
Staff Present:	Allan Hunting, City Planner Heather Botten, Associate Planner Stacy Bodsberg, Community Development Support Specialist

3. APPROVAL OF MINUTES

A. Approval of Meeting Minutes from the April 4, 2023, Regular Planning Commission Meeting.

The meeting minutes from April 4, 2023 were approved as submitted.

4. APPLICANT REQUESTS AND PUBLIC HEARINGS

A. Consider a request by Jersey's Bar & Grill, 6449 Concord Boulevard, for a Variance from the exterior building material requirements and the side setback requirements for a new structure. (23-11V)

Reading of Public Notice

Commissioner Weber read the Public Hearing Notice to consider the request for Jersey's Bar & Grill, Case No. 23-11V. The request involves property located at 6449 Concord Boulevard and consists of a variance for the exterior building material requirements to allow a structure with steel siding and a setback from the neighboring property. Notices were mailed to six (6) property owners on March 31, 2023.

Presentation of Request

Associate Planner Heather Botten discussed the request for property located on the west side of Concord Boulevard, north of 65th Street. The property is zoned B-3, General Business District. To the north it abuts R-1C, Single Family Residential District. The applicant requests a variance from the siding requirements and setbacks to allow a shipping container to be used as a seasonal bar on the applicant's property, the outdoor patio. The structure is approximately 160 square feet in size and would be located about 10 feet from the northern property line.
City Code requires all structures in the B-3 District maintain at least a 75-foot setback from an R-1, Residential District. Code also requires at least 50% of the exterior surface of a building be

either brick, textured or concrete block, lap siding, natural stone, or glass. Concord Boulevard has a mix of building types and exterior building materials. The intent of the exterior building material ordinance is to require all commercial and industrial buildings to have a high grade of materials for aesthetic and valuation purposes. In order to help redevelop the Concord area, staff believes that all structures, seasonal or temporary, comply with the current ordinance. This structure would have windows that open up/fold down when not in use and double doors for access purposes. Due to the historical area of Concord Boulevard, many buildings do not comply with setback requirements. The existing bar/restaurant is considered a legal non-conforming structure as it does not comply with the 75-foot setback to the northern lot line. Any type of addition/improvements for a structure would need a variance. Code does not have any flexibility for accessory structures in a commercial/industrial district. They would have to comply with the principal structure setback.
This property is unique in that the 10-foot setback complies if the lot to the north was zoned commercial or if it was a residential accessory structure. The property is guided mixed use with housing mixed in with commercial and industrial areas.
Staff believes approving the exterior building material variance could set a precedent for other accessory buildings in commercial and industrial areas. Staff does not believe the criteria to meet a practical difficulty has been set; there are other options such as putting approved materials over the steel siding or constructing a building to meet code requirements. Staff supports the setback variance, the fact that the existing building is legal non-conforming, and that the code does not allow for reduced setbacks for the accessory types of uses. Based on information and criteria in the report and conditions listed, staff recommends denial of the exterior building materials and approval of the setback variance. Staff has not heard from any of the surrounding property owners.

Chair Niemioja asked if there has been staff consideration on making a change to a portion of the ordinance to cover shipping containers because it is an area of growth.

Ms. Botten stated that staff has not received direction for an ordinance change. She said there has been a couple of inquiries from other businesses to allow shipping containers on the property. One of the suggestions for a request is to amend the zoning code. This is the first request for a variance to come forward.

Opening of the Public Hearing

William Ashton, 6449 Concord Boulevard, stated he has read and understands the report. He said he understands why the city would not want steel exterior. He said his plans were to make it look nice. They would do custom paint jobs, it would not rust, it would look nice there.

Chair Niemioja questioned if there were options to build a different structure and why the shipping container had to be the structure.

Mr. Ashton responded that cost was a factor. He said there is an abundance of shipping containers. He thought it went well with the area and with the trains going by, it seemed to fit.

Commissioner Clancy said it was a seasonal use bar and asked if it would stay in its location or moved around with the seasons.

Mr. Ashton responded it would be seasonal. It is set up for them to be able to rent out when not in use. A crane could pick it up and take it where needed. It could be rented out in the winter.

Commissioner Heidenreich asked if it would have sprinklers and sanitary water inside.

Mr. Ashton replied it would have full plumbing and electrical. There would be quick disconnects on everything.

Commissioner Heidenreich asked if that included the drains.

Mr. Ashton responded that it includes the drains; it would be drained into the city sewer/street.

Commissioner Robertson mentioned that she was initially unsure of the shipping container and asked Mr. Ashton what prompted him to use one for this use.

Mr. Ashton replied it was a hot item at the moment, a lot of people are starting to use them as mini houses or making large homes out of them.

Commissioner Robertson asked if the intent was to do something creative with it on the outside.

Mr. Ashton replied that he wanted to get good paint or wrap designs. He said if it wasn't approved, siding could be used, it would not be a problem.

Commissioner Robertson asked if knowing code, why he wished to pursue using it as it is.

Mr. Ashton responded that he believes it goes with the area. Concord Boulevard is an industrial area, with the trains going by, he felt it would look pretty cool.

Commissioner Clancy asked if it was more cost effective to use the premade box or if he had investigated using other cost-effective options.

Mr. Ashton responded that it was more cost effective to use as an existing structure.

Chair Niemioja closed the Public Hearing.

Planning Commission Discussion

Chair Niemioja stated that to her, it was an ordinance amendment with the materials. She does not see a practical difficulty. She agreed with the applicant that the aesthetic was really cool for the area; it's right by the train tracks. She agreed that shipping containers are becoming a very popular trend.

Commissioner Heidenreich said he was unsure it was a practical difficulty; the Commission has approved shipping containers in the past on Barnes Avenue and Rich Valley. One was approved last year for NSP to put on an industrial park along with exceptions. It was for the natural gas treatment plant for Flint Hills, they use a shipping container.

Commissioner Weber said the idea of a shipping container was awesome for a bar like this because of the security features. Building a wood structure could be broken into, a shipping container would not be as likely. He has noted them used for bars in downtown Minneapolis. He said it was very creative and thoughtful. He said it was hard to come up with a practical difficulty, but was something that could be discussed in the ordinance and get an amendment done.

Commissioner Robertson said she thought the practical difficulty was the ordinance, which could be a stretch. She recommended it because she thought there was sound rationale for recognizing this particular request as appropriate in the area. She believes the rationale is superb. She was unsure what a practical difficulty would be.

Commissioner Weber believed from a Planning Commission standpoint, the only way they can get past this would be to deny because it does not fit the practical difficulty under land use in the ordinances. He said the Planning Commission could make a strong suggestion to the City Council to review the ordinance to change and allow this use.

Chair Niemioja agreed with Commissioner Weber because it was subjective and difficult to say the ordinance is out of date frequently. She said this was a neat, new thing.

Commissioner Robertson questioned the timing. If putting forward a request to the City Council that they review the ordinance, she asked how that impacts the timing for the applicant. She was interested in what this does to the applicants timing to be able to do this project.

Mr. Ashton responded if denied by the Council, they would side it and get it going as soon as they could.

Commissioner Wippermann said it was nice to have a business investing in their operations. The patio and new fencing that have gone up looks very nice. He said he has a tough time thinking that metal containers add to the attractiveness of a neighborhood. Dressing it up and using the siding as mentioned, can comply. He was concerned about the precedent the use of shipping containers would set for use in other locations/areas in the city.

Planning Commission Recommendation
Motion by Commissioner Weber, second by Commissioner Clancy, to deny the variance on the exterior materials for lack of a practical difficulty with a strong suggestion to the City Council and staff to look at the City Code to find a way to work this problem out for property located at 6449 Concord Boulevard, Jersey's Bar & Grill.

Motion carried (7/0).

Motion by Commissioner Weber, second by Robertson, to approve the variance to allow the structure with the reduced side yard and rear setbacks with the practical difficulty listed for property located at 6449 Concord Boulevard, Jersey's Bar & Grill.

Motion carried (7/0). This item goes before the City Council on May 8, 2023.

B. Consider a request by Staples Land Co. LLC, 10093 Rich Valley Boulevard, for a Preliminary Plat and Variance from lot frontage for a four-lot subdivision to be known as Rich Valley Ranch. (23-12SV)

Reading of Public Notice
Commissioner Weber read the Public Hearing Notice to consider the request for Staples Land Co. LLC., Case No. 23-12SV. This request involves property located at 10093 Rich Valley Boulevard and consists of a preliminary plat for a four-lot subdivision known as Rich Valley Ranch and variances for the minimum lot frontage requirements for Lots 2, 3, and 4 and any other related variances. Notices were mailed to 72 property owners on March 31, 2023.

Commissioner Clancy stated that he needed to recuse himself from this vote due to a conflict of interest from the city and the applicant.

Presentation of Request

Associate Planner Heather Botten discussed the request zoned agricultural, located on the west side of Rich Valley Boulevard off of Adam Avenue. The applicant proposes subdividing the lot into four single family lots. The lot is 30.46 acres in size with proposed lot sizes between 5 to 10 acres. The property is zoned agricultural which requires a minimum of five acres per lot for the subdivision. The preliminary plat shows lots 2, 3, and 4 without direct road frontage to Rich Valley. Due to this, the applicant requests variances for the three lots because they do not meet the 30-foot required road frontage.

The proposed four lot subdivision is consistent with the zoning and comprehensive plan designations. There is a 200-foot NSP easement that runs along the northern part of the property. There would be four building pads on the proposed lots. The applicant proposes one shared access point off of Rich Valley Boulevard. The location of this access has received a variance from Dakota County to allow all four lots access to the shared driveway.

Engineering has reviewed the plans and are working with the applicant on finalizing any stormwater management on the site. Park dedication would be cash in lieu of land. The applicant has requested the city consider vacating a trail easement that runs along the northern part of the property. The Parks and Recreation Director has suggested the city retain this easement for possible future trail. To note, there is not an actual trail proposed at this time.

A variance is requested for lots 2, 3, and 4. The lot sizes proposed are not out of character for the neighborhood and are consistent with the comprehensive plan. The property is unique because there is 680 feet of frontage with over 200 feet of that under easement. Designing a plat that complies with the road frontage requirements would have flag lots and may trigger the need for other variances such as minimum width requirements. The property is located along Rich Valley Boulevard, a county road. The county would not allow additional access points. Even if the lots were configured differently, they would still need to have a shared access point.

Based on the information presented and included in the staff report, staff supports the plat and variances as proposed with the conditions listed. Staff has heard from three residents; two had general questions, and one stopped into City Hall inquiring if there were any changes from the neighborhood meeting held last year.

Planning Commission Discussion

Commissioner Weber questioned if there were multiple neighborhoods on Rich Valley Boulevard that have shared access, the variance for this is not uncommon along Rich Valley. The trail easement was news to him, he lives in the area. He questioned where the trail would go to the west. He said there was a road easement off Agatha Avenue. He asked if that would stay existing because there was no connection here or if it would be vacated to a cul de sac.

Associate Planner Botten stated that road frontage variances are not uncommon. She addressed the trail direction to the west stating it doesn't go anywhere. She said that Agatha Avenue has not been decided yet, it would likely be a decision the City Engineer would make.

Commissioner Weber mentioned a concern that was voiced to him was if there was a deeded easement, what stops Lot 4 from bringing a driveway through from that road.

Associate Planner Botten replied topography is a challenge. The applicant looked at access points going off of Adam and Agatha and found that it was not feasible. She suggested having the Public Works Department look into this.

Commissioner Wippermann asked if the properties would be zoned E-1.

Associate Planner Botten replied they would not, they would stay agricultural.

Opening of the Public Hearing
Danielle H. Staples, 10093 Rich Valley Boulevard, stated she has read and understands the report. She said they envisioned using the land to enrich their own families and give back to the Inver Grove Heights community. She said her dad was the Inver Grove Heights Baseball President Association for many years, they spent a lot of time at Rich Valley Park playing Heat Soccer. When the land nearby was available in 2022, they jumped at the chance. Since then, they have been working with city staff, engineers, Dakota County engineers, and numerous environmental experts to find the best way to subdivide the property. In their opinion, four lots was a better use of the land. They have worked to place a shared driveway onto County Road 71 and settled on a design that exceeds safety requirements. They opted to create a 24-foot-wide road for the access point. She said they would appreciate the Commissions support of the subdivision.

Chair Niemioja closed the Public Hearing.

Planning Commission Recommendation
Motion by Commissioner Weber, second by Commissioner Challeen, to approve the preliminary plat with the six conditions listed for property located at 10093 Rich Valley Boulevard, Staples Land Co. LLC., Case No. 23-12SV.

Motion carried (6/0).

Motion by Commissioner Weber, second by Commissioner Wippermann, to approve the variance for the minimum road frontage for lots 2, 3, and 4, subject to the one condition listed, with the rationale and practical difficulty listed for property located at 10093 Rich Valley Boulevard, Staples Land Co. LLC., Case No. 23-12SV.

Motion carried (6/0). This item goes before the City Council on May 8, 2023.

C. Consider a request by IGH Partners, LLC., for a Final Plat and Planned Unit Development to construct a proposed apartment and townhome development on the property located near the intersection of Diffley Court and Highway 3, and on PID #'s 20-64442-00-010, 20-64440-01-010, and 20-64440-00-010. (23-13SPUD)

Presentation of Request
City Planner Allan Hunting discussed the final plat and final PUD plans for the plan called Robert Curve, 4th Addition located at Diffley and South Robert Street. This will develop the balance of the property. The City Council approved the balance of the plans in December. This Commissions review focuses on the conditions of approval and if the final plans are consistent with the preliminary. Staff has reviewed the 12 conditions.
The development consists of a 190-unit apartment building and 54 townhome units on the southern side. There are stormwater treatment areas, the auto repair site, Casey's gas station, and a liquor store located at the end.

- Staff finds the final plans to be consistent with the preliminary.

- Engineering is still working on the review and will be finished by the time this goes before the City Council. No issues have been noted.
- Staff is still waiting on comments from MnDOT; they would be looking for drainage. This needs to be addressed and finalized before it goes before the City Council.
- A development contract and related agreements will address maintenance, management of stormwater, and open space.
- As a rental property, this would be maintained by a property maintenance management company. That company would be responsible, per the development agreement, for all maintenance. There would not be a Homeowners Association.
- Park Dedication fees have been worked out. Because this is within the Joint Powers Agreement with the City of Eagan, the developer pays the greater of the two fees. Inver Grove Heights receives a portion of the fees.
- The City Council added a condition on a parking analysis. The developer had shown less parking for the apartment building. A parking demand analysis was provided and done by a traffic consultant. Staff reviewed and was comfortable with the numbers provided.

Staff recommends approval of the final plans as presented.

Planning Commission Discussion

Commissioner Challeen questioned the open space condition and where the open space was.

City Planner Hunting replied there is open space, the plan was not included in the Commission packets. There is a significant amount of open space around the buildings due to trails and the perimeter areas of the project. The required amount of open space has been met. Improvements cannot be done on them. Those areas would have to be maintained by them, not the city.

Commissioner Robertson asked if fire has looked at this in terms of access, particularly in the townhome area.

City Planner Hunting responded that a preliminary review looked at the lanes. The Fire Marshal would verify and do their final review. There were no issues from the preliminary stage.

Commissioner Robertson asked if the access points into the development could be reviewed.

Mr. Hunting replied the public street, Diffley Court, is already in place. The apartment would have access coming off the end of it. There is another point for additional parking. A section of townhomes would have an opening driveway and another opening serving the turnaround for the units.

Commissioner Robertson questioned if access into the whole development comes off of Robert Street.

Mr. Hunting replied it all comes off of Robert Street and Diffley at the stoplight intersection.

Chair Niemioja asked what the delineation was between the properties towards the back.

Mr. Hunting responded that it abuts the railroad. There are small retaining walls.

Commissioner Weber mentioned that the railroad company has a fence that runs the entire length.

Andy Brummer, IGH Partners LLC., 1200 25th Avenue South, St. Cloud, Minnesota, replied there are retaining walls and landscaping. There is a pipeline easement along the eastern boundary that they do not want to touch.

Planning Commission Recommendation
Motion by Commissioner Clancy, second by Commissioner Weber, to approve the final PUD development plan for the Robert Curve 4th Addition, subject to the three conditions noted.

Motion carried (7/0). This item will be before the City Council on May 22, 2023.

5. OTHER BUSINESS
The deadline for applications for the Planning Commission's vacant positions are on May 1st, 2023.

6. COMMISSION AND STAFF COMMENTS
None.

7. ADJOURN
Motion by Commissioner Weber to adjourn the Planning Commission Meeting at 7:46 p.m.

Respectfully submitted, Sheri Yourczek, Recording Secretary