

## **PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS**

Wednesday, September 6, 2023 – 7:00 p.m.  
City Council Chambers – 8150 Barbara Avenue

### **1. CALL TO OFFICE**

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)  
Jonathan Weber (Secretary)  
Robert Heidenreich  
Dennis Wippermann  
Jason Teiken  
Lance Twedt  
Trisha Presley

Commissioners Absent: Aida Schaefer (excused)

Staff Present: Allan Hunting, City Planner  
Heather Botten, Associate Planner  
Stacy Bodsberg, Community Development Support Specialist

### **3. CONSENT AGENDA**

#### **A. Minutes of the August 2, 2023 Planning Commission Meeting**

Commissioner Presley mentioned that her first name is spelled incorrectly. (Should be Trisha)

#### **B. Minutes of the August 15, 2023, Planning Commission Meeting**

The Consent Agenda was approved with the correction noted.

### **4. PUBLIC HEARINGS**

#### **A. Request for a Variance to construct a pool and perimeter walkway within the shoreland setbacks of Rosenberger Lake at property located at 8450 Alta Ave. (Jongbloedt-23-35V)**

##### **Reading of Public Notice**

Commissioner Weber read the Public Hearing Notice. The notices were mailed to 17 property owners on August 17<sup>th</sup>, 2023.

##### **Presentation of Request**

Associate Planner Heather Botten discussed the request for property located at the end of Alta Avenue. The property is zoned R-1A, Single-Family Residential District. The applicant requests a variance to build a 20x40 foot pool with a 5-foot perimeter walkway within the shoreland setbacks. Setbacks for a structure on a lot that does not have city water and sewer is 100 feet from the ordinary high-water mark. The property is about 200 feet across. With the 100-foot setbacks, there is no buildable area without some type of variance needing approval. The house was constructed in 1990, there was a variance approved to allow the encroachment within the shoreland. At the time the water was considered a wetland, there is no additional setbacks required from a wetland. The house was constructed within 28 feet of the ordinary high-water mark. In 2006, the previous owner asked for a variance for a home addition. At that time the

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DNR came out to the site and determined all portions of the water around it are a part of DNR ID# 19-41 and the 100-foot setback would have to be from all parts of the water.

The applicant requests a variance for the pool. The pool would not be any closer from the established setbacks of the existing house. Adding 5 feet for the perimeter walkway encroaches on both sides to be 5 feet closer than what the established setbacks are. The closest neighboring home is 200 feet away to the south. The pool is in compliance with the rear yard setback. A rear yard setback for a pool is 10 feet. There is no impact to those neighbors. Staff does not believe the improvements proposed would alter the character of the neighborhood. Staff believes there is rationale and a practical difficulty to support a variance for a pool and a perimeter walkway. Staff does not support the applicant's request specifically wanting the pool to meet the existing setbacks and having the perimeter walkway to encroach closer. Staff would support a variance to have the pool and perimeter walkway meet the established setbacks of the house with the two conditions listed in the report. Staff heard from one person in the neighborhood who had general inquiries about the request. Associate Planner Botten sent them the site plan and informed them that the report is on the website. She has not heard anything further.

**Planning Commission Discussion**

Commissioner Twedt stated that he was very confused by the lot lines and property description on this piece of property. With 19.91 acres, he questioned if they own a large portion of the lake.

Associate Planner Botten replied in the affirmative.

Commissioner Twedt questioned if the setback was on the lake immediately to the east and mentioned that the lake was very boggy and secluded.

Associate Planner Botten replied it was also to the west. It's a 100-foot setback coming from both directions.

Commissioner Presley asked if the DNR has commented back on the application received.

Associate Planner Botten responded the DNR did respond and did not have any issues with the proposal. They encouraged staff's interpretation of the ordinance stating that the pool is a structure.

Commissioner Weber stated that the item's staff report states that comment had not been received from the DNR and questioned if that needed to be changed.

Associate Planner Botten replied that an email response was received today at 11:23 a.m. from the DNR.

**Opening of the Public Hearing**

Justin Jongbloedt, 8540 Alta Avenue, stated he has read and understands the report.

Chair Niemioja asked Mr. Jongbloedt if he understand the request by staff regarding the setbacks and the sidewalk, and if it worked into his plan.

Mr. Jongbloedt replied that he understands. He said in the backyard of his property there is landscaping and patio that has been there for 15-20 years. The pool could be built within the guidelines of the home, with the patio 5 feet and the way the landscaping is, it is in the 28.3 feet.

Chair Niemioja asked if it was on the western end of the 28.3.

Mr. Jongbloedt referenced the southeast side of the home, indicating that between 28.3 and 33.8, is a concrete pad with a hot tub and steps going down. There is patio work there from when the home was remodeled.

Chair Niemioja asked if there is a pre-existing concrete structure going out, if that has already been established as a new line.

Associate Planner Botten replied the patio would not have needed a permit. By code definition, there are specific requirements that are measured from the perimeter walk around a pool. It is specific in the code on what the setbacks include.

Chair Niemioja stated the standard is met for getting a variance on the pool. The setback for the walkway around the pool is what the Commission needs to consider.

Mr. Jongbloedt shared that the long-term plan would be to put a fence around the area. He asked if the fence would fall in line with anything.

Associate Planner Botten replied that it depends on how high the fence would be.

Mr. Jongbloedt replied about 3.5 to 4 feet.

Associate Planner Botten responded that should be fine. She said he could not do the concrete pad around the pool and do a patio later. If he cannot do it on one side, he could do it on the other side to make up for the loss of patio work.

Commissioner Clancy mentioned they were looking at the west and eastern sides, mainly the northeastern corner of the pool perimeter. He questioned if they were impeding upon the variance distance already. That gets them outside of the 28.3. He asked if the applicant could build closer to the house with the patio and stop as soon as they get close to the 28.3/80-foot distance from the high-water mark.

Associate Planner Botten replied it widens as going north. If there is room for them to push it up, they could, as long as everything is within the 28.3. She mentioned that a 20-foot-wide pool is large, there are also pools that could be 15 feet wide in terms of other options.

Commissioner Clancy referenced the proposed design and questioned if slicing the sidewalk patio and then stopping, so he could not build beyond that certain point. He said it was a possible idea, there needs to be reasoning to approve the rationale.

Associate Planner Botten replied they could be around a good portion of the pool, just not all the way around.

Mr. Jongbloedt stated if 28.3 is the imaginary line, it still fits. He would not have a perimeter around the entire pool. It would be more triangulated near where the deck is, which is still acceptable.

Commissioner Heidenreich agreed that pushing the pool closer to the house might be a solution, but did not think it was practical because they have to stay 10 feet from the deck structure so people do not think it is ok to try to jump that distance. He said the whole property is noncompliant. There is nothing that can be done to bring it into compliance, they cannot make it bigger. He suggested going with it and letting the DNR make the final decision.

Chair Niemioja said the DNR was not likely to come back on this item, it would be up to the City Council.

Chair Niemioja mentioned that staff's recommendation was to stay within the 28.3, but to let it happen.

Commissioner Wippermann asked what the difference was between a patio surface and a walkway surface.

Associate Planner Botten replied that the walkway surface is connected to the pool. Code specifically states for a pool that you measure from the perimeter walk, slope around the pool, or the edge of the pool, whichever is closer. In this case the perimeter walk is the greatest.

Commissioner Wippermann said he doesn't have a problem with approving the variance for the entire request.

Chair Niemioja closed the public hearing.

### **Planning Commission Discussion**

Chair Niemioja mentioned that Commissioner Heidenreich made a great point in that the entire area is non-compliant. The fact that it was a lake was surprising.

Commissioner Twedt said there are setback requirements for a couple of reasons, one to protect the water, the other to protect the neighbors. The applicants own the lake. He said it sounded like this was protecting them from themselves.

Chair Niemioja mentioned there is a practical difficulty that applies for the pool. She would extend that a little beyond what staff is saying. She said if the DNR didn't have a strong opinion on it, she thought the practical difficulty would apply.

Commissioner Weber asked how often the high-water mark is analyzed.

City Planner Allan Hunting replied he was unsure how often. Those are established by the DNR.

Commissioner Weber said he was comfortable giving all for this request. The maps are unlikely up to date and the water line could be out another 10 feet.

**Planning Commission Recommendation**

Motion by Weber, Second by Twedt, to Approve the Variance to construct the pool and the perimeter walk within the shoreland setback subject to the two conditions, using the rationale listed, allowing it to go to the 23-foot mark, and to accept the DNR email into the record and packet for property located at 8450 Alta Ave. (Jongbloedt-23-35V).

Ayes: 8

Nays: 0          Motion carried.

This item tentatively goes to the City Council on September 25<sup>th</sup>, 2023.

**B. Request for the Vacation of Drainage and Utility Easements within Outlot A and Outlot B, Robert Curve Fourth Addition. (IGH Partners-23-36SPUD)**

**Reading of Public Notice**

Commissioner Weber read the Public Hearing Notice. The notices were mailed to 51 property owners on August 17<sup>th</sup>, 2023.

**Presentation of Request**

City Planner Allan Hunting discussed the request consisting of a 190-unit apartment building and 54 townhomes. The Planning Commission approved the final PUD setback in April. In July, the Council approved Phase 1. The developer chose to do this in two (2) phases. There would be 45 townhome units on one side and 9 townhomes units on the other side along with the apartment building. The City Council approved Robert Curve Fourth Addition. That consisted of the one lot with the other items as described in the outlots. The outlots were dedicated with easements. The applicant is coming through with Phase 2, Robert Curve Fifth consisting of the two outlots, the apartment, and townhomes. Those show the same easements. The process is to vacate the easements shown on the two outlots on Robert Curve Fourth. Those would be vacated with the County in the process. They would be rededicated on Robert Curve Fifth Addition. He stated that the City Council would act on this item at the end of September. Planning and engineering have no issues with the vacation and rededication.

**Opening of the Public Hearing**

Andy Brummer, IGH Partners LLC/Trident Development LLC, 1200 25<sup>th</sup> Avenue South, St. Cloud, Applicant, stated he has read and understands the report.

Chair Niemioja closed the public hearing.

**Planning Commission Recommendation**

Motion by Weber, Second by Presley, to Approve the Vacation of the Public Drainage and Utility Easements within the plat of Robert Curve Fourth Addition (IGH Partners-23-36SPUD).

Ayes: 8

Nays: 0          Motion carried.

This item tentatively goes to the City Council on September 25<sup>th</sup>, 2023.

**5. REGULAR BUSINESS**     None.

**6. ADJOURN**

Motion to adjourn the Planning Commission Meeting at 7:25 p.m.

Respectfully submitted, Recording Secretary Sheri Yourczek.