

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

Tuesday, December 5, 2017 – 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:     Tony Scales  
                                        Dennis Wippermann  
                                        Jonathan Weber  
                                        Joan Robertson  
                                        Pat Simon  
                                        Annette Maggi  
                                        Elizabeth Niemioja  
                                        Brett Kramer  
                                        Armando Lissarrague

Commissioners Absent:

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

### **APPROVAL OF MINUTES**

The minutes from the November 7 and November 21 Planning Commission meetings were approved as submitted.

### **VICKIE STADTHER (McDONALDS) – CASE NO. 17-57CA**

#### **Reading of Notice**

Commissioner Simon read the public hearing notice to consider the request for a conditional use permit amendment to add a second drive-through lane, along with other site improvements, for the property located at 5760 Cahill Avenue. 40 notices were mailed.

#### **Presentation of Request**

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the subject property is zoned B-3, General Business. The request is to add a second drive-through lane, along with additional site improvements (i.e. updating the ADA areas, replacing the building façade, a partial restriping of the parking lot, and reconstruction of the trash enclosure). Engineering reviewed the plans and has been working with the applicant on stormwater and grading requirements. Standard engineering conditions are included in the report. Staff recommends approval of the request with the ten conditions listed. Staff did not hear from any of the neighbors.

#### **Opening of Public Hearing**

Vicky Stadther, McDonalds, 1650 West 82<sup>nd</sup> Street, Bloomington, advised she was available to answer any questions.

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

Ms. Stadther replied in the affirmative.

Chair Maggi closed the public hearing.

**Planning Commission Recommendation**

Motion by Commissioner Scales, second by Commissioner Wippermann, to approve the request for a conditional use permit amendment to add a second drive-through lane, along with other site improvements, for the property located at 5760 Cahill Avenue.

Motion carried (9/0). This item goes to the City Council on December 11, 2017.

**HAMPTON COMPANIES – CASE NO. 17-42PUD**

**Reading of Notice**

Commissioner Simon read the public hearing notice to consider the request for a rezoning of a portion of the property from R-1C/PUD, Single-Family Residential Planned Unit Development to R-3C/PUD, Multiple-Family Residential Planned Unit Development, a preliminary plat and preliminary PUD development plan for a 68-unit single-family villa development and a 32-unit assisted living facility, and a conditional use permit for a multiple-family development consisting of the 32-unit assisted living facility, for property located along 80<sup>th</sup> Street, east of South Robert Trail and west of Babcock Trail. 5 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 a mixed density residential development consisting of 68 single-family detached villa lots and a 32-bed senior care facility. The property is currently zoned R-1C/PUD for the previous single-family project that was approved in 2014 but never built. The assisted living building would require a rezoning to R-3C. In order to provide the density needed to match the financial assumptions for the site, the applicant is requesting a reduced front and rear setback, and a setback reduction for the senior building from 80<sup>th</sup> Street. The street system consists of both public and private streets. Outlot B will be owned by the City and will provide access to the property on the east side of the main public road. The landscape plan is 101 trees short; therefore, they can add the trees on site or provide a cash contribution. Staff recommends approval for the request with the conditions listed in the report.

Chair Maggi asked staff to clarify the proposed and maximum allowed impervious surface.

Mr. Hunting explained the impervious surface calculations, advising that the proposed development meets the overall requirements.

Commissioner Niemioja asked why a condition was needed regarding impervious surface.

Mr. Hunting replied because staff needs to establish a specific impervious surface allotment per lot to be used when reviewing individual building permits.

Commissioner Robertson asked for the definition of single-family villas.

Mr. Hunting replied that the developer is describing them as 'single-family villas'; however, planning staff considers them single-family detached homes and has no separate standards specifically for this product.

Commissioner Simon asked what is considered a 'structure' in regard to Condition 19.

Mr. Hunting replied anything that is built.

Chair Maggi asked if concrete would be allowed outside the building pad.

Mr. Hunting replied that patios could theoretically be outside the building pad; the condition related to anything being built above ground.

Chair Maggi noted that a patio would still have to comply with the impervious surface maximum allowed.

Commissioner Weber asked if the Fire Department reviewed this application.

Mr. Hunting replied in the affirmative.

Commissioner Wippermann asked staff to explain the difference between public and private side corner setbacks.

Mr. Hunting explained that the applicant is proposing a 5-foot side corner setback from private streets and 10 feet from public streets.

Commissioner Wippermann noted the reduced setbacks being requested, which were even less than the already reduced Northwest Area requirements.

Commissioner Niemioja asked what the plan was for sidewalk connectivity.

Mr. Hunting advised there is not a defined plan, but the proposed sidewalk system will connect to 80<sup>th</sup> Street and to the west as those properties get developed.

Commissioner Weber asked if the Abbott parcel would have access via the private road.

Mr. Hunting replied in the affirmative, stating the property owner would retain that access until such time as he developed his property.

### **Opening of Public Hearing**

Joel Larson, Hampton Companies, 1341 County Road D Circle, Vadnais Heights, advised he was available to answer any questions.

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

Mr. Larson replied in the affirmative.

Commissioner Weber asked what Mr. Abbott's options were should there be any issues with his access to the private road.

Mr. Larson replied that he would be happy to discuss this with Mr. Abbott, and that Mr. Abbott would be given the same access rights as the people purchasing lots in the development.

Commissioner Niemioja asked if the road would be maintained by a homeowner's association.

Mr. Larson replied in the affirmative.

Commissioner Niemioja asked if there were any age restrictions on who could live in this development.

Mr. Larson replied that there were no age restrictions, and that their market was likely empty nesters, snow birds, and millennials.

Commissioner Lissarrague asked how Mr. Abbott would be assessed for the private road maintenance.

Mr. Larson replied that Mr. Abbott would not be assessed for using the private road to get to his home.

Commissioner Scales asked what the anticipated price point was for the villas.

Mr. Larson replied approximately \$400,000.

Commissioner Wippermann asked if the landscaping and snow removal would be handled by the association.

Mr. Larson replied in the affirmative.

Commissioner Robertson asked the applicant what size garages were being proposed.

Mr. Larson stated they would likely be approximately 22' x 22', which would allow homeowners to park two vehicles in the garage and two in the driveway. They would be open to building a three-car garage if space permitted.

Chair Maggi stated she was surprised to hear about the \$400,000 price point as she was hoping for something more financially feasible for people to be able to sell their homes and downsize to something like this with smaller lots. She noted that the development originally proposed for this parcel was for 44 lots rather than the 69 currently being proposed.

Mr. Larson stated he was not associated with the prior request, but that the price of townhomes had dramatically increased recently due to carpenter shortages, hurricanes, etc.

Commissioner Niemioja asked the applicant to try to protect more of the heritage trees.

Mr. Larson advised they would try to work in some of those species if possible.

Commissioner Wippermann asked the applicant if they had considered making this development specifically for seniors.

Mr. Larson replied that they had considered narrowing it down to a 55-plus neighborhood, but ultimately decided against it.

Commissioner Weber noted that two of the three house plans in the packet were too large to fit on the building sites.

Mr. Larson replied that they were aware of that and were in the process of redesigning the plans.

Commissioner Lissarrague asked what happened to the 44-lot development that was originally approved.

Mr. Hunting replied that his understanding was that it was not financially feasible because of the considerable amount of money needed to cover the shortage of units they were proposing, as well as the cost of construction.

Commissioner Lissarrague asked if the current applicant was a new investor from the previous group that brought forward the 44-lot development.

Mr. Hunting replied in the affirmative, stating it was an entirely different group.

Kurt Rechtzigel, 1407 - 80<sup>th</sup> Street East, advised that he was considering developing his adjacent property as well, and wanted to make sure he and Mr. Abbott would retain access to their property from 80<sup>th</sup> Street. He also wanted to make sure they could tie into the sewer and water system. He requested to see more detailed plans of the proposed memory care building.

Commissioner Robertson asked who made decisions regarding access and turn lanes on 80<sup>th</sup> Street.

Mr. Hunting advised that it was a County road and therefore the County would make decisions on the access and turn lanes. He noted that the design has a right turn lane in and a bypass lane on the other side. When Mr. Rechtzigel is ready to develop he can stub into the proposed public street and connect just as anyone else would be able to.

Anthony Abbott, 1401 – 80<sup>th</sup> Street East, asked if the homeowners association would pertain only to the assisted living facility or to the single-family villas as well.

Chair Maggi replied it would pertain to the single-family villas as well.

Mr. Abbott asked who would be responsible for road maintenance.

Mr. Hunting replied that the public roads would be taken care of by the City and the homeowners association would care for the private roads.

Mr. Abbott asked if he would have to pay association fees.

Mr. Hunting advised that the applicant has stated Mr. Abbott would not be charged association dues.

Mr. Larson reiterated that Mr. Abbott would not be charged association fees. He displayed a rendering of the proposed senior building and explained that it is a single level 32-unit memory care and high acuity assisted living facility.

Mr. Rechtzigel wanted to make sure that he and Mr. Abbott would receive the same flexibilities that this development was granted at such time as they developed their own properties.

Chair Maggi stated that while she understood that this development would be setting a precedent, each request was considered individually.

Chair Maggi closed the public hearing.

### **Planning Commission Discussion**

Mr. Hunting addressed Mr. Abbott's concern regarding his driveway for the private road, and advised that one of the conditions of approval requires access to the Abbott parcel to remain open at all times.

Chair Maggi asked if the conditions applied to all four approvals being requested.

Mr. Hunting replied they would apply to all; however, technically there are no conditions for a rezoning.

Commissioner Weber asked what Mr. Abbott's guarantee was that he would have access should the association fail or change hands.

Mr. Hunting thanked him for bringing up that point and stated they would consider that when preparing the final documents.

Commissioner Lissarrague asked if there would be something in writing guaranteeing Mr. Abbott access 24/7 and assurance that he would not be landlocked.

Mr. Hunting replied in the affirmative.

Chair Maggi noted that Condition 18 addresses access for the Abbott parcel. She advised that she was generally supportive of the request, but was hoping this development would have offered a more affordable housing option and she was concerned about the steep allowances they were requesting on setbacks.

Commissioner Wippermann stated he would have gone along with the significant concessions being requested had this been strictly senior housing; however, he was concerned about this being a single-family development with children as there was no park, small yards, and no place for children to play. He did not think the reduced setbacks would create a positive appearance, was not in favor of this as a single-family development, and was concerned about the potential for variance requests since the lots were only 5,000 square feet in size.

Commissioner Robertson understood Commissioner Wippermann's concerns but stated she did not believe people with children would be drawn to this development. She could; however, see people wishing to move out of a big home into a smaller unit such as this where they would be part of an association. She supported the request and felt it was a new product not currently available in the City.

Commissioner Scales supported the request, stating it helped fulfill the comprehensive plan's need for density.

Commissioner Lissarrague stated he was not opposed to the project but was concerned about the potential for homeowners wanting to build additional structures on these small lots.

Commissioner Niemioja was somewhat concerned about the precedent this would set, especially with two adjacent lots looking to develop. In her opinion there would be children living here, she liked that this was a new product to the City, noted that not everyone wants a large yard, and questioned what Inver Grove Heights and their single-family neighborhoods were about and whether they valued open space and greenery.

Commissioner Kramer asked if the homeowners association would have to come before the City Council and Planning Commission to request patios or decks if the HOA itself did not allow them.

Chair Maggi advised that HOA covenants were private agreements outside the purview of the City.

Commissioner Robertson stated one benefit of the proposed development is that it could add density that would help support the nearby businesses.

Commissioner Weber asked if Outlot H could be used as a park area.

Mr. Hunting replied that it could not as it was needed for stormwater purposes.

Chair Maggi asked Commissioners to keep in mind that there was the potential for two adjacent parcels to be requesting the same setbacks as this applicant.

Commissioner Scales stated in his opinion allowing these developments flexibility to add density would be beneficial to the City.

Commissioner Simon stated her biggest concern with the flexibilities being requested was allowing a ten-foot separation between houses.

Commissioner Lissarrague asked if the City could request that the homeowner association bylaws include language stating that the City would not grant variances for decks, sheds, etc. outside the building pad.

Mr. Hunting replied that they could not do that as there is a process to allow for variances.

Commissioner Scales stated the Commission has spent a lot of time talking about the comprehensive plan and how we need to build density within the City in certain areas, but yet when someone comes with a request such as this we say they want people to have more space. He believes there is a market for this type of home, and it is a good product that works well in the proposed area. He noted that Argenta Hills was built with similar setbacks and people were buying them as fast as they could build them.

Chair Maggi agreed with Commissioner Scales about the need for density, but felt the challenge was the extreme discrepancies being proposed from the norm.

Commissioner Scales suggested they look at these villas as a completely different product from what currently exists.

Commissioner Niemioja agreed, stating they should consider the villas as a new product which, in her opinion, would likely be successful. If this were a townhome development she would be more supportive as there would be more space on the sides.

Commissioner Weber stated that the reduced setback from 80<sup>th</sup> Street did not bother him as it was the back of the assisted care facility, it would be heavily landscaped, and perhaps the activity would actually be beneficial for the residents.

Commissioner Robertson stated for some people a ten-foot separation was desirable rather than being a detriment, and that people had the right to come to the Planning Commission with variance requests. Commissioners should not deny a request because they were afraid of getting variances.

Commissioner Weber asked for clarification of a line of construction being outside the lot boundaries on Sheet T1-0.

Mr. Hunting advised he was not sure what that referred to, but stated the work would not go beyond the lot lines.

Chair Maggi asked if the Housing Committee made a recommendation on this request.

Mr. Hunting replied that he had presented it to them but that they did not make a formal recommendation.

Commissioner Weber if Fire Department staff had reviewed the proposed turnarounds.

Mr. Hunting replied in the affirmative, stating there was enough room being proposed for the fire trucks to back up or circle to get out.

Commissioner Lissarrague asked if the original HOA bylaws were the builder's responsibility.

Commissioner Niemioja replied in the affirmative, but stated the issue was that associations can dissolve at any moment.

Commissioner Lissarrague stated they would be binding though once they were recorded at Dakota County.

Commissioner Weber replied not if the association dissolves and becomes inactive.

Commissioner Lissarrague stated in his opinion it would be unusual for an association to dissolve.

Commissioner Weber disagreed, stating the reason he asked if there was an easement placed on the private road for Mr. Abbott's land was because if the HOA dissolved Mr. Abbott would have no one to go after at that point. In his opinion there should be an easement placed on that land ensuring Mr. Abbott access through the private road.

### **Planning Commission Recommendation**

Motion by Commissioner Robertson, second by Commissioner Scales, to approve the request for a rezoning of a portion of the property from R-1C/PUD, Single-Family Residential Planned Unit Development to R-3C/PUD, Multiple-Family Residential Planned Unit Development, a preliminary plat and preliminary PUD development plan for a 68-unit single-family villa development and a 32-unit assisted living facility, and a conditional use permit for a multiple-family development consisting of the 32-unit assisted living facility, for the property located along 80<sup>th</sup> Street, east of South Robert Trail and west of Babcock Trail, with the conditions listed in the report.

Commissioner Weber asked if the motioners would accept a friendly amendment to add a condition to grant an easement through the private road to Mr. Abbott's land.

The motioner and seconder agreed to accept the friendly amendment.

Mr. Larson stated that an easement was not needed as Mr. Abbott had access to the public road to the south and was not landlocked.

Commissioner Scales advised that it would be very expensive for Mr. Abbott to expand his driveway down to the public road.

Mr. Hunting agreed that a public right-of-way would be stubbed up to Mr. Abbott's land allowing him access.

Commissioner Weber stated regardless of whether the property was landlocked, he recommended granting an easement to Mr. Abbott from the private road.

Commissioner Scales asked if they could sunset the easement as Mr. Abbott would likely no longer need it once he developed his land and got access to the public road.

Mr. Hunting stated he would have to check with the City Attorney regarding sunseting.

Commissioner Robertson stated in her opinion there is value in putting some form of a sunset onto the condition to grant an easement for Mr. Abbott through the private road as long as his property is not developed. That easement would be vacated when Mr. Abbott's land is developed.

Chair Maggi restated the motion by Commissioner Robertson, second by Commissioner Scales, to approve the request for a rezoning of a portion of the property from R-1C/PUD, Single-Family Residential Planned Unit Development to R-3C/PUD, Multiple-Family Residential Planned Unit Development, a preliminary plat and preliminary PUD development plan for a 68-unit single-family villa development and a 32-unit assisted living facility, and a conditional use permit for a multiple-family development consisting of the 32-unit assisted living facility, for the property located along 80<sup>th</sup> Street, east of South Robert Trail and west of Babcock Trail, with the conditions listed in the report, with the conditions listed, **and an added condition granting an easement for Mr. Abbott from the private road which is sunsetted when he develops his own property.**

The motioners agreed to the amended motion.

Motion carried (7/2 – Wippermann, Simon). This item goes to the City Council on December 11, 2017.

The meeting was adjourned by unanimous vote at 8:14 p.m.

Respectfully submitted,

Kim Fox  
Recording Secretary