

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, December 1, 2020 – 7:00 p.m.

****REMOTE MEETING****

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

Commissioners Present: Elizabeth Niemioja
Annette Maggi
Brett Kramer
Dennis Wippermann
Pat Simon
Scott Clancy
Jonathan Weber
Kate Challeen
Joan Robertson

Commissioners Absent:

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

RODGER ESPESETH – CASE NO. 20-37Z (tabled from November 17, 2020)

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the applicant is requesting a rezoning and variances for the existing use on the property. There are no physical changes being proposed to the site or for the existing use. The lot currently has a split zoning; the eastern half of the property is zoned I-1, Limited Industrial and the western half is zoned I-2, General Industrial. The request is to rezone the entire parcel to I-2. In 2007 the applicant received approval of an Interim Use Permit (IUP) to allow a mini-storage facility and outdoor vehicle storage on the property. The IUP was required because the proposed use was not an allowed use in the I-2 district at that time. In 2016 the City Council approved changes to the allowed uses in the I-2 district; one of which was that mini-storage facilities with outdoor vehicle storage would now be a permitted use in the I-2 district. Rezoning the eastern half of the property from I-1 to I-2 would require the property to comply with City Code, Section 10-15-10B relating to outdoor storage in the I-2 district. The applicant is requesting variances from two of those standards, including: 1) to allow outdoor storage to be 47 feet from an agricultural zoning district whereas 100 feet is required, and 2) from outdoor storage screening requirements. This site is unique in that mini storage with outdoor storage has been operating on this property since 2007 and no changes are being proposed to the site itself. There are three houses to the south of the property that are zoned Agricultural. The Agricultural zoning in this case is more of a holding zone as the long-range plan for those properties is for an industrial use. When the IUP was approved the applicant installed substantial landscaping around the property to provide screening for the outdoor storage from the residential properties and the public right-of-way. The closest home sits about ten feet higher in elevation than the storage lot so requiring solid fencing would not provide a benefit to the abutting residential property. Staff recommends approval of the requests. No conditions are being proposed since the use is not changing. Staff heard from one property owner who had general questions.

Opening of Public Hearing

Rodger Espeseth, 10900 Clark Road, advised he was available to answer any questions.

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

Mr. Espeseth replied in the affirmative.

Chair Maggi closed the public hearing.

Planning Commission Recommendation

Motion by Commissioner Simon, second by Commissioner Robertson, to approve the request for a rezoning of a portion of the parcel from I-1, Limited Industry to I-2, General Industry and a variance to allow outdoor storage less than 100 feet from an A, Agricultural zoned property and from the outdoor storage screening requirements, for the property located at 10900 Clark Road, with the practical difficulty as listed in the report.

Motion carried (9/0). This item goes to the City Council on December 14, 2020.

DAVID HAUCH – CASE NO. 20-42V

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a variance from the front setback to allow a porch to be located 26 feet from the front property line whereas 30 feet is required, for the property located at 8046 River Road. 3 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 porch addition that at its closest point would be 26 feet from the front property line. The addition would be a 14-foot-wide overhang over the front door area of the new addition to the existing home. Mr. Hunting stated this property is unique in that there is a garage on this property and the one to the north that are located at or just off the front property line. Also, River Road is not located in the center of the road right-of-way and the right-of-way is much wider than what occurs on modern roads. The proposed porch addition would still be about 60 feet from the roadway surface. Staff recommends approval of the request.

Opening of Public Hearing

The applicant was not present.

Chair Maggi closed the public hearing.

Planning Commission Recommendation

Motion by Commissioner Wippermann, second by Commissioner Robertson, to approve the request for a variance from the front setback to allow a porch to be located 26 feet from the front property line whereas 30 feet is required, for the property located at 8046 River Road, with the practical difficulty as listed in the report.

Commissioner Niemioja stated she was uncomfortable using the existing garages that were closer to the property line and already in violation as a practical difficulty to allow something else, especially since they were likely grandfathered in. She asked if the motioners would consider amending their motion to list the practical difficulty as just the extra wide boulevard.

Commissioner Wippermann and Commissioner Robertson agreed to amend their motion to list only the extra wide boulevard as the practical difficulty.

Motion carried (9/0). This item goes to the City Council on December 14, 2020.

PABLO CASTELLANOS – CASE NO. 20-44V

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a variance to allow a solid 48-inch fence whereas 42-inches with 75% clear visibility is required within the front setback, for the property located at 7051 Arlo Way. 6 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the applicant is requesting a variance to allow a solid fence to be 48 inches high within the corner front setback. The fence would be located about 18 feet from the curb and over 80 feet from the closest intersection. The abutting property to the rear of the applicant has their driveway about 27 feet from where the fence would be located. The ordinance requires all fences within the corner front yard to be no taller than 42 inches and to have at least 75% open visibility. A solid fence on this property corner could have an adverse impact on the visual appeal of the front yard for the property behind it and could impact the visibility from their driveway. Additionally, allowing taller solid fences in the corner front yard could have an impact on the character of the neighborhood. Staff does not believe the criteria for a variance have been met and are recommending denial of the request. Staff did not hear from any of the abutting property owners.

Chair Maggi asked if this was a situation where there were technically two front yards.

Ms. Botten replied in the affirmative, stating it was a corner lot.

Opening of Public Hearing

Juan Pablo Castellanos, 7051 Arlo Way, advised that he was available to answer any questions. He clarified that the fence portion along Archer Trail was proposed at 48 inches to allow better visibility for the neighbors, but the remainder of the fence would be six feet tall.

Ms. Botten confirmed that her understanding as well was that the northern and western portions would be taller.

Mr. Castellanos advised that they have checked with several companies in the area and no one carries 42-inch fence due to COVID. The proposed vinyl privacy fence would provide safety for their children as this is a main road with a lot of traffic.

Commissioner Robertson asked the applicant if he was requesting a variance for both the height of the fence and the density.

Mr. Castellanos replied in the affirmative.

Commissioner Robertson asked if that was subject to the 75% visibility requirement.

Ms. Botten replied in the affirmative, stating the applicant was asking for a variance to have a solid fence.

Claudia Sanchez, 7051 Arlo Way, asked if the variance could be denied based on neighbors not being able to see.

Chair Maggi explained that one of the requirements of a variance is that there must be a practical difficulty to allow a variance from the code.

Ms. Sanchez asked if the points listed in their narrative were considered, like the fact that they were willing to put the fence even further from the sidewalk.

Chair Maggi advised that the narrative was included in their packet of information; however, that does not relate directly to the zoning requirements on the height maximum of 75% visibility.

Mr. Castellanos asked if it would make a difference if there was more spacing in the fence.

Ms. Botten replied that if the applicant agrees to install a chain link fence instead of a solid fence then only one variance would be necessary for the height.

Mr. Castellanos asked if they would have to submit another variance application.

Chair Maggi replied they would not as the request in front of them tonight included variances for both the height and the density.

Commissioner Wippermann asked if their development had a homeowner's association.

Mr. Castellanos replied in the affirmative but stated he had just received a letter that it would be ending at the end of this year and there would just be neighborhood board members at that point.

Commissioner Wippermann asked if the HOA had reviewed their fence plans.

Mr. Castellanos replied that they had not, but that they would likely accept them if the City was okay with it. They are more concerned about having an old fence installed that would be detrimental to the neighborhood. In this case they are proposing to install a new vinyl fence.

Commissioner Wippermann asked the applicant if he had considered installing a wrought iron fence, like his neighbor, as it would comply with the visibility requirements and would not be as obstructive as a solid fence.

Mr. Castellanos replied they wanted more privacy than that. He added that he spoke with his neighbor, who advised he would have no issue with the vinyl fence.

Commissioner Challeen asked the applicant if he would consider a 42-inch fence if it was available.

Mr. Castellanos replied in the affirmative, stating he called three fence companies, and all stated they could not get a 42-inch fence due to manufacturing shortages due to COVID.

Commissioner Challeen stated she had not done the level of research that Mr. Castellanos had; however, it appeared to now be available and she noted that inventory may have improved.

Mr. Castellanos noted that was a possibility but stated it would likely go up in price due to the shortage.

Ms. Sanchez asked if they would allow a 48-inch metal fence.

Chair Maggi replied that they had not gotten to that part of the discussion yet.

Mr. Castellanos stated they are willing to cooperate and are just frustrated that they cannot get their fence up.

Commissioner Weber stated he can appreciate that it is difficult to find 42-inch privacy panels. Because he thinks visibility is important, he could support a variance for the 48-inch height but not for the opacity.

Chair Maggi closed the public hearing.

Planning Commission Discussion

Commissioner Robertson stated that she appreciated the applicant stating he would be willing to work with the City on alternative options. She advised that when this development was first brought forward Commissioners anticipated that variance requests would be brought forward once people were in their homes and wanted a fence or other amenity. Her concern is that there will be more variance requests in the future, and therefore she believes it is important for Commissioners to be clear right from the beginning about what they can and cannot approve. There was a similar request at the last planning commission meeting, and she believes that vote and the one for this request will contribute to precedent. She stated she did not support the request.

Commissioner Niemioja stated in her opinion visibility is even more important than in the last request because of the curvature of the road and the neighbor needing to be able to see through the fence from their driveway. She also does not see a practical difficulty. She noted that at this point COVID-19 has not been considered a practical difficulty; however, if in the spring there still is no fencing material available that is reasonably accessible in the correct height perhaps that is a practical difficulty the City Council could consider. At this point she believes the applicant can utilize their property with the kind of fencing that would keep their children safe while complying with code.

Planning Commission Recommendation

Motion by Commissioner Robertson, second by Commissioner Niemioja, to deny the request for a variance to allow a solid 48-inch fence whereas 42-inches with 75% clear visibility is required within the front setback, for the property located at 7051 Arlo Way, based on the lack of a practical difficulty.

Motion carried (9/0). This item goes to the City Council on December 14, 2020.

BUILDER LOT GROUP (EAGLES LANDING) – CASE NO. 20-38SV (tabled from November 17, 2020)

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a preliminary plat for a 10-lot subdivision to be known as Eagles Landing, and variances from the minimum lot size and width, for the property located at 2655 – 70th Street. 26 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the applicant is proposing to develop a five-acre parcel just west of North Valley Park into 10 new single-family home sites and an additional lot for the existing home. The property is zoned R-1C, single-family residential and is guided Low Density Residential. The LDR designation allows for densities up to four units an acre, and the proposed development is at 2.2 units per acre. The lot sizes range from 10,400 to 46,000 square feet and lot widths range from 65 to 123 feet. The applicant is requesting variances for lot size and width requirements on a number of the lots. The applicant is proposing a 50-foot-wide right-of-way through the development and subsequent to the writing of the report the Fire Marshal has determined that parking would be allowed on one side of

the street. The proposed street would access through the 70th Street right-of-way and then the park would connect off that new road. The Dakota County Plat Commission reviewed the plat and are requesting that the existing residential driveway on Lot 11 be removed from 70th Street and then connect to the new road. The County is also suggesting that the developer consider noise mitigation elements be incorporated into the development to address any noise complaints from 70th Street. The City is not interested in buying the private property and is recommending that the developer pay park dedication fees in lieu of land. The Parks Director commented that noise from pickle ball courts has been an issue in other communities, so he is requesting a discussion with the applicant and the City prior to final plat submittal to discuss how to handle possible future noise issues with the abutting pickle ball courts. The project complies with the R-1C standards relating to setbacks and impervious surface requirements. A tree preservation plan was submitted to the City later this afternoon and upon cursory review it appears that the applicant would be removing about 80% of the significant trees on the property and would have to plant approximately 150 trees to meet the reforestation requirements. A revised landscaping plan will be required with the final plat submittal. There is an infiltration basin on the northeast corner of the property that is designed so that a 100-year storm event would not produce a higher flow rate than what currently exists on the property. The applicant is requesting variances from the minimum lot size and width standards on a number of the lots. While this property is not in the Northwest Area, smaller lot sizes and widths are given flexibility and encouraged to be smaller where needed. The property demonstrates a practical difficulty in that the topographical challenges of the site have resulted in some of the lots not meeting width requirements while others do not meet lot size requirements. No lot needs a variance from both lot size and width standards. The average size of all 11 lots is 16,747 square feet. Staff recommends approval of the request. Staff received three emails that were provided to planning commissioners. One email is from several neighbors on Booth Avenue. Overall, the neighborhood is not in support of the request with the concerns listed in the emails.

Chair Maggi asked for clarification of the ownership of the land.

Ms. Botten replied that the property is owned by Marcus Esparza and the applicant is the Builder Lot Group.

Chair Maggi asked if the land had been owned by that same person for quite some time.

Ms. Botten replied in the affirmative.

Chair Maggi asked for clarification of the existing home.

Ms. Botten advised she was not sure who currently lived in the home but stated the land it sits on is part of the existing parcel.

Chair Maggi asked staff to clarify the proposed access.

Ms. Botten showed where the park drive currently runs over onto the applicant's property. The property is currently not platted so the metes and bounds description shows the property going to the center line of the road. She is not sure of the history of why or how the driveway for the park property goes over onto an easement area on the applicant's private property.

Chair Maggi asked if that was a documented easement.

Ms. Botten replied that they could not find such a document. She explained that the applicant is proposing to construct a road into Eagles Landing that complies with City requirements; the access to the park would come off that new road.

Commissioner Niemioja asked for more information on the proposed infiltration basin.

Jake Moser, Civil Engineer, advised it is an existing low area that would be excavated into a stormwater basin.

Commissioner Wippermann asked what the setbacks would be, including minimum side yard setbacks or separation between houses.

Ms. Botten stated they would be in compliance with the standard R-1C requirements, including a 30' front and rear yard setback and a five-foot side yard setback from accessory structure and 10 foot from a principal structure.

Commissioner Wippermann asked if there was a 15-foot minimum separation as had been done in some other development.

Ms. Botten replied there was not since they were able to comply with the normal R-1C standards.

Commissioner Robertson asked if the two entrances would be overlapped off 70th Street.

Ms. Botten explained that there would be one public street access off of 70th Street into the development and then the park access would be off that public street.

Chair Maggi asked where future additional pickle ball courts would be located.

Ms. Botten replied that according to the Parks Director additional pickle ball courts were not planned for any time soon, but if they were added they would be located southeast of the existing courts. She noted that several parking spaces were added when this area was redone.

Chair Maggi asked if there was space available for additional parking.

Ms. Botten replied that they are not planning to add any additional parking at this time as the Parks Director believes there is adequate parking on the site.

Commissioner Challeen asked what options were available for noise abatement other than a wall.

Ms. Botten stated staff would suggest planting the required 150 additional trees on the south and east sides to help with noise mitigation.

Commissioner Simon asked where the water runoff from the additional impervious surface would flow.

Jake Moser, Civil Engineer, showed the direction the runoff would flow on a map. He advised that the runoff from Booth Avenue should flow down to the proposed stormwater infiltration basin in the northeast portion of the subject site. From there water would discharge into an existing ditch adjacent to the park driveway and then be directed north. They are required to match existing flow rates up to the 100-year storm.

Commissioner Simon asked if they were planning on putting anything on the west side of the proposed development to help catch the runoff or perhaps piping from one catch basin to another.

Mr. Moser replied that the preliminary submittal did not show any rear yard storm sewer, but a condition of approval is that their catch basin spacing meet the maximum spacing requirements. They would potentially have the option to construct side yard swales to direct the water from Booth

Avenue.

Commissioner Simon asked who would oversee the maintenance of the infiltration basin.

Mr. Moser replied that the developer would enter into a Storm Water Facilities Maintenance Agreement with the City, which would detail the maintenance of the infiltration basin.

Commissioner Robertson asked whose responsibility it would be to do noise abatement, if needed would there be space dedicated for the construction of the noise abatement, and what would the impact of the noise abatement on the drainage system. In her opinion noise abatement should be dealt with during the development rather than later.

Ms. Botten clarified that no one is proposing to build a sound wall. They are just having discussions about whether there could be noise issues and possible ways of addressing it, such as installing thicker paned windows, planting trees, or recording an agreement against the property stating that the homeowners are aware they are building next to a park which may have noise associated with it. The City would not be responsible for noise mitigation for the park property. Noise from the pickle ball courts has not been an issue with this park but has been in other communities.

Commissioner Robertson asked for a clearer distinct plan for noise mitigation and whose responsibility it was.

Opening of Public Hearing

Steve Soltau, Builders Lot Group, advised he was available to answer any questions.

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

Mr. Soltau replied in the affirmative. In response to an earlier question, Mr. Soltau advised that the property owner lives in the existing home and is planning on staying there. He is subdividing his land into 11 lots, with which will be for his existing home.

Commissioner Simon asked if they had discussed how children would be picked up for school as she assumed a school bus could not turn around in the private cul-de-sac.

Mr. Soltau realized that they had not had a conversation with the transportation company but there was ample room for a bus to turn around. They have also ordered a traffic study and a noise study. Once those are completed, they will talk with staff and address any concerns the studies reveal.

Ms. Botten advised that the cul-de-sac is designed to handle a fire truck so a bus could use the cul-de-sac as well to turn around.

Commissioner Robertson questioned how they would perform a noise study related to pickle ball courts during the months when they were not in use.

Mr. Soltau stated they would take into consideration all noise that would be generated by the park and the roads. He noted that the homes themselves would create additional density and, coupled with additional trees being planted as a buffer, making adjustments to windows may be all that is needed. They will wait to see what the recommendations are going to be.

Chair Maggi asked the applicant what his response would be to the neighbors who state that this neighborhood is not consistent with the larger lots in the adjoining neighborhoods.

Mr. Soltau stated that around the metro lot sizes have gotten smaller as developers try to meet the Metropolitan Council and city guidelines.

Brett and Joy Phares, 6938 Booth Avenue, stated that most of their concerns were addressed in the letter provided to commissioners, but their main concern was the increased traffic from homeowners, trash haulers, delivery trucks, etc. They advised that currently it is unsafe to turn onto Booth Avenue from 70th Street and the additional traffic would only make it worse. The lots were also much smaller than the ones on Booth Avenue and it was confusing why a variance would be granted for these lots when they asked to split their property and were told it would not be allowed as their lot was too small. They noted that they can hear the pickle ball courts from their homes and it can get loud.

Chair Maggi advised the Phares' that commissioners received their letter.

Commissioner Niemioja asked if it was the 70th Street traffic they were most concerned about.

Ms. Phares replied in the affirmative, stating drivers are unaware of Booth Avenue and think they are going all the way to Blaine Avenue, so they don't slow down.

Commissioner Niemioja asked the Phares' when they asked to subdivide their property.

Ms. Phares replied about 15 years ago they called the City and were told their lot was too small to subdivide.

Matt Krumrie, 6914 Booth Avenue, advised that the current owners' parents previously owned the property, stated no other city park allows an entrance to a park road on a neighborhood road, there will be increased traffic because of delivery trucks, food deliveries, homeowners, etc. driving in and out while pickle ball players are entering and exiting the park while cars are parked on both sides of the road. The County expects an increase of 1,000 cars a day on that road between now and 2040, which breaks down to about 50 cars an hour. That road will be much busier and congested. The proposed lots are very small and according to the comprehensive plan new development areas should be compatible in size and scale to existing adjoining neighborhoods. These lots, however, are not compatible in size to anything on Booth Avenue, up the hill, or across 70th Street. The comprehensive plan states that it is important to retain the rural character of the city by protecting and enhancing its natural features. When you enter this park area you feel like you are away from the city and the city should protect these wide-open spaces rather than squeezing in new residential. Everything the city stands for is being minimized with the eight variances being requested. There are too many unanswered questions like where the runoff will go and will the new pond overflow and run into the baseball fields. Other cities have complained about pickle ball noise and it will likely be an issue here as well, and once this is developed the City will never have a chance to buy it to expand the park.

Matt Mikel, 6850 Booth Avenue East, questioned whether there would be room to plant 150 new trees with the minimal amount of land remaining after the houses are built.

Troy McManus, 6836 Booth Avenue, stated that right now the existing trees buffer their homes from the pickle ball courts and he questioned who would replace their windows with thicker panes once the tree buffer was gone. The noise they get now is minimal but if 80% of the trees are removed and replaced with small trees it will be an issue. Also, it is already difficult to get out of Booth Avenue in the morning and it will be even more difficult if this development goes in. He is concerned too about the additional runoff from these homes, stating that in the spring the water comes from this neighborhood, down the road, and into the baseball fields. He agrees with his

neighbors that the proposed lot sizes do not fit in this area, and he questioned why the applicants would get variances when they would not even consider giving him a variance of five feet when he built his house in 2005. All the variances will add stress to the area. The current low area is not a wetland, but he thinks it will become one because of this development and the fact that there is nowhere for the water to run once they start leveling it off. He thinks parking will also be a problem, and he questioned why the additional pickle ball courts that were previously planned for were put on hold.

Marjorie Savage, 6911 Booth Avenue, stated she would like to see a rendering of the proposed homes, stating if they were as tall as they are wide it would look overwhelming and unattractive for the area. She questioned why they would want to set a precedent of smaller lots.

Mr. Soltau pointed out that this application complies with both the zoning code and future land use plan in regard to density; in fact, what they are proposing is almost half what is allowed.

Ms. Botten advised that Mr. Soltau was having technical issues, but she believed he was trying to say that the comprehensive plan allows up to four units per acre, which would result in 20 potential lots on this property. The applicant is proposing 11.

Commissioner Simon noted that although a certain density is planned for, the comprehensive plan does not take topography, etc. into account for each specific lot. In many areas the allowed density would not be possible because of steep hills, etc.

Ms. Botten replied that is why they are proposing 10 new sites rather than 20. She stated there could potentially be some reconfiguration of Lot 5 to reduce the number of variances needed, but it would result in unusual property lines and would not change the number of houses that would be there.

Ms. Botten stated that she believed Mr. Soltau was also trying to make the point that originally their submittal was for 15 lots. After the neighborhood meeting, they reduced the number of lots to 10 new lots plus the one existing home.

Melvin Moore, Builder Lot Group, agreed that after the neighborhood meeting, they went back and had a conversation with the homeowners, and they agreed to make adjustments to allow fewer lots to work towards the goal of being sensitive of everyone's needs.

Commissioner Weber asked if staff knew what the right-of-way number was that runs in front of this property on 70th Street as he was trying to understand why the right-of-way was so unusual.

Ms. Botten advised that it is County right-of-way, not City, but she does not know the history of how the park property had the road installed where it was.

Mr. Moore advised that he employed someone from Assure Title to research that issue and to date they have not been able to find any recorded easements. It looks like it remains part of the property that was owned and is owned by the current owner.

Commissioner Simon asked if they would have perhaps moved that over to the entrance road because of topography.

Mr. Soltau replied it was moved to the current location so it would line up with the street south of 70th Street. They have not been able to locate the easement itself, but it is not a problem that it is routed that way. The County is just looking for it to have a single point of access on 70th Street and a full public street width. He advised that while he was having technical difficulties, he was able to

hear that Ms. Botten addressed both of the points he was trying to make.

Chair Maggi closed the public hearing.

Planning Commission Discussion

Chair Maggi stated this seems to be a situation where a piece of land has been sitting vacant for quite some time and the owner is now trying to use it within reasonable means. In her opinion this would bring some graduation from the size of the neighboring properties and moving into the park. She asked if the existing house needing to change their driveway should be listed in the conditions.

Ms. Botten replied that it could be listed, but it would be addressed at the County level.

Chair Maggi agreed with staff's suggestion of having homeowners sign an agreement stating they are aware they are building next to a park which will likely be noisy.

Commissioner Niemioja stated she understood the neighbors not wanting to see this piece of land be developed, they also had to balance the rights of the property owner to utilize their property. If this property owner is trying to reasonably use their property under the guiding principles and the zoning code the City has to respect that; however, they can control it somewhat. They cannot take away the property right of an owner without compensating them. If the City is not going to buy this land, and the Booth Avenue neighbors are not going to purchase this land, she would not vote to take away this property owner's right in this case without compensation. Perhaps the parks department needs to give this park more attention and maybe the police should get more involved in monitoring who is parking on the street in that park. People using the park should also feel free to contact the parks department when there are issues. She has found them very responsive. She noted that this is only the preliminary plat, and many specifics would be discussed before final approval. She also agreed that there should be some sort of clause saying homeowners are aware of the property's proximity to the park and they recognize there are adverse effects associated with a park. Regarding the noise concerns of the Booth Avenue residents, she believes the noise ordinance would protect them from that. She disagreed that these lot sizes were totally out of character for the neighborhood, stating the homes on Blake Path, in the same zoning district as this development, were around 12,000 square feet in size. Lastly, she questioned whether the city encouraging smaller lots where needed was a viable practical difficulty.

Commissioner Clancy stated he has personally witnessed the parking and backup along the street as well and agreed that they should look into some sort of enforcement, such as a fire lane, or sign posting. He reiterated that this was just the preliminary plat and further information would be divulged regarding noise, variances, drainage, etc. Lastly, he would like to see more information regarding the traffic report and whether it includes any information that might warrant further investigation into traffic coming in and out of these areas. At this point he would likely vote in favor of moving this forward.

Commissioner Challeen stated the reason this is before the Planning Commission for a variance is due to the lot size and width. She would prefer for there to be fewer homes so it could comply with lot size and width requirements, so no variance is needed. She would not be voting in favor of this request.

Commissioner Robertson stated she had significant concerns around noise. She advised that one of her family members purchased a home in March. In the spring they heard gunshots and discovered they were near a gun range. It ended up requiring legal action. Even if someone signs a paper acknowledging they are near a park, until they live it in the spring it is just words on paper. In her opinion the language in the conditions is much too vague for her to feel confident that people buying here have guaranteed noise relief or who would be responsible for it. She could not vote in

favor of the request until that issue was addressed.

Chair Maggi asked if Commissioner Robertson was saying she would want a condition added that a noise abatement plan was provided prior to final plat.

Commissioner Robertson replied that a detailed noise abatement plan was built into the final plat.

Commissioner Kramer stated he is familiar with this area and at first questioned how they would fit 10 new lots into the proposed location. However, after looking into it more, and knowing that it complies with the zoning density requirements, he is in favor of the general concept. He stated if the proposed street was straight it would actually look very similar to how Booth Avenue is laid out. He sympathizes with the residents on Booth Avenue and understands that the lot sizes are smaller than those on Booth. He did not see a practical difficulty; however, saying the stated one was weak.

Chair Maggi asked if anyone had thoughts on a practical difficulty for the requested variances on lot size and width.

Commissioner Niemioja suggested the challenging topography be part of the practical difficulty and stated she was in favor of the plat but would not support it unless a viable practical difficulty was determined.

Ms. Botten noted that topography has been used in the past as a practical difficulty.

Commissioner Weber stated that the proposed lot widths are similar to the neighborhood to the south and some of the lots on Booth Avenue, so he suggested the practical difficulty being that it was not out of character of the surrounding properties and topographical challenges.

Chair Maggi asked if there were additional conditions the planning commission wanted to add besides a final review of the traffic study, a noise abatement plan, and some notification to purchasers that they are buying a lot next to a park that would likely have associated noise.

Commissioner Simon asked if a noise study should be required as well.

Chair Maggi replied that the challenge is that there is no pickle ball at this time of year.

Planning Commission Recommendation

Motion by Commissioner weber, second by Commissioner Clancy, to approve the request for a preliminary plat for a 10-lot subdivision to be known as Eagles Landing, and variances from the minimum lot size and width, for the property located at 2655 – 70th Street, with the conditions listed in the report and additional Condition 15 that a traffic study be done to gain a better understanding of how this development will impact 70th Street traffic and Condition 16 requiring a noise abatement plan, with the practical difficulty being the topographical challenges and the proposed lot sizes not being completely out of character for the neighborhood.

Motion carried (7/2 – Challeen, Robertson). This item goes to the City Council on December 14, 2020.

RON CLARK CONSTRUCTION – CASE NO. 20-43ZSC

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a preliminary plat

for a two-lot subdivision and a rezoning of a portion of the property from P, Public to R-3C, Multiple-Family Residential, and a conditional use permit (CUP) for a 49-unit apartment building, a CUP to exceed the maximum height for a structure, and variances from minimum lot size for a church property, for the property located at 5590 Babcock Trail. 17 notices were mailed.

Presentation of Request

Allan Hunting, City Planner, explained the request as detailed in the report. He advised that the applicant is requesting to rezone the apartment portion of the lot to R-3C, Multi-Family Residential. The property is currently one lot and contains the existing church, parking area, and the cemetery. The applicants are requesting to subdivide the property into two lots. The new boundary would split the lot between the apartment building lot and the church lot. Right-of-way would be dedicated along Babcock Trail, which is a County road, and would bring the total size of Lot 1 below the three acres required for a church in the Public/Institutional zoning district. The applicant is also requesting two CUP's to allow for a 49-unit multiple-family apartment building and to allow for a building height of 46.6 feet. Buildings are typically measured from the first floor to the mid-point of the roof. In this case the lowest floor elevation is exposed by more than 50% so that brings the height to 46.6 feet. Buildings over 35 feet in height require a CUP. The access point will be shared by the church and the apartment building. They will essentially have their own parking lots. Because the two parking lots overflow into each other there is not an actual setback from property lines so technically it requires a variance. They are requesting a variance to allow 23.4% building coverage whereas 20% is allowed, and also a variance to allow 54.7% impervious surface coverage whereas 40% is allowed. The applicant hired a consultant to do a traffic study. The study found no negative impacts to the intersection points and did not find the need for additional roadway improvements. The stormwater pond is proposed on the back side of the fire station lot, and the city engineer supports its design as it will help improve stormwater drainage for other lots in the area as well. Staff recommends approval of the project, which is providing workforce housing which is a goal of the Housing Chapter of the Comprehensive Plan, and they are trying to develop some underutilized land on a church site which warrants some flexibility from some of the code standards.

Commissioner Weber asked if this was a legal non-conforming cemetery.

Mr. Hunting replied that a cemetery is allowed in the Public/Institutional zoning district and its configuration would be considered grandfathered in.

Commissioner Weber asked if they verified setbacks from the closest burial plot.

Mr. Hunting replied there are no City requirements for setback from burial sites, but this was quite a distance from any of the markers.

Commissioner Simon asked if staff heard from any neighbors other than the one email they received.

Mr. Hunting replied they had not.

Commissioner Robertson asked for confirmation that the proposed church site would be under three acres in size.

Mr. Hunting replied in the affirmative, stating once the County has made a final determination on how much additional right-of-way they want it will bring the lot to under three acres.

Commissioner Robertson asked if falling under the three-acre size would impact the church's tax-exempt status.

Mr. Hunting replied that the three-acre minimum was a city requirement and likely would not impact their tax-exempt status.

Opening of Public Hearing

Mike Waldo, Ron Clark Construction, 7500 W. 78th Street, Edina, advised he was available to answer any questions.

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

Mr. Waldo replied in the affirmative. He advised that they held a neighborhood meeting, which a representative from CHS attended. They also had a voicemail exchange with the HealthPartners clinic, who was supportive of their request. They also spoke with the author of the email, Ms. Platek, about traffic and the fact that the study shows this project's effect would be minimal. Her perception is that it has a negative effect on her. Ms. Platek was the only neighbor they heard from on this application and only one person spoke at the planning commission meeting for the comprehensive plan amendment. The church is comfortable with their setbacks from the burial sites. The County is working with the church on the right-of-way as the amount they want to take is encroaching onto a couple burial sites. The biggest concerns with the previous comprehensive plan amendment were traffic and access. The traffic study clearly states that this is a small enough building that it would not negatively affect the nearby intersections and they were able to move the access further east. Like any four-lane road there will be times when drivers are not able to get out immediately, but it should access well in normal situations. The traffic study also shows that over the last five years the peak demands of an apartment building in AM and PM are reduced because the average apartment dweller has a more diverse schedule than single-family residential.

Commissioner Simon asked for clarification of the location and height of a retaining wall by the underground parking back to the infiltration pond.

Mr. Waldo advised that there is a small retaining wall as you drive down to the underground garage and an additional wall leading to the pond. Mr. Waldo was not sure of the heights but stated a portion of the wall was fairly tall as it gets towards the drainage basin.

Commissioner Simon stated she was more concerned about the wall going into the underground parking lot and the ability to keep an eye on people going in and out.

Mr. Waldo advised they have video surveillance of the garage area.

Chair Maggi closed the public hearing.

Planning Commission Discussion

Commissioner Niemioja acknowledged that the neighbor who wrote the email lived on a busy corner, but she does not see traffic as an issue that would preclude her from voting for this development. She did not believe the apartment building would be nearly as impactful to traffic as the school on Babcock or future developments further north. She also noted that the traffic study was supportive of this development as well.

Planning Commission Recommendation

Motion by Commissioner Weber, second by Commissioner Wippermann, to approve the request for a preliminary plat for a two-lot subdivision and a rezoning of a portion of the property from P, Public to R-3C, Multiple-Family Residential, and a conditional use permit (CUP) for a 49-unit apartment building, a CUP to exceed the maximum height for a structure, and variances from minimum lot size for a church property, for the property located at 5590 Babcock Trail, with the

conditions listed in the report.

Motion carried (9/0). This item goes to the City Council on December 14, 2020.

OTHER

City of Inver Grove Heights – Case No. 20-47X

Allan Hunting, City Planner, asked the Planning Commission to review the expenditures for a drainage plan on Carleda Way and Cahill Avenue for its consistency with the comprehensive plan. Staff believes the proposed expenditure is consistent with comprehensive plan.

Motion by Commissioner Wippermann, second by Commissioner Weber, the recommend that City Project No. 2016-13 is consistent with the comprehensive plan.

Motion carried (9/0).

Mr. Hunting advised that the December 15, 2020 Planning Commission meeting has been cancelled.

The meeting was unanimously adjourned at 9:37 p.m.

Respectfully submitted,

Kim Fox
Recording Secretary