

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, November 16, 2021 - 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.

Commissioners Present: Elizabeth Niemioja
Dennis Wippermann
Pat Simon
Joan Robertson
Anthony Scales
Kate Challeen
Scott Clancy
Jonathan Weber

Commissioner's Absent: Robert Heidenreich (excused)

Staff Present: Heather Botten, Associate Planner
Allan Hunting, City Planner
Kim Fox, Community Development Specialist

2. APPROVAL OF THE PLANNING COMMISSION MINUTES FOR NOVEMBER 3, 2021

The Planning Commission Meeting Minutes for November 3, 2021 were approved as submitted.

3. APPLICANT REQUESTS AND PUBLIC HEARINGS:

GEORGE GUEVARA - CASE NO. 21-59V

Reading of Public Notice

Commissioner Simon read the public hearing notice to consider the request by George Guevara - Case No. 21-59V for property located at 7086 Delaney Avenue. The request consists of a variance for a porch to be located within the front yard setback. Notices were mailed to 4 property owners on November 3, 2021.

Presentation of Request

Heather Botten, Associate Planner, explained the request for property located at 7086 Delaney Avenue, south of 70th Street. The property is zoned R-1C, Single Family Residential District. The Applicant proposes constructing an open porch onto the front of the existing home. The addition would be about 11x18 feet in size. She mentioned at the closest point, based on her measurements, the porch would be about 19 feet from the southern corner to the property line. Zoning Code allows for uncovered decks or entryways to allow a 6-foot encroachment into the front yard setback. In this case because they are doing a roof over the porch, that part of the Code does not apply. The Applicant lives on a cul de sac, the home is in the middle of the property with about a 10 foot setback difference between the front yard and the rear yard. The neighborhood consists of single-family homes to the north, south, and west, and an apartment building to the east. The addition is in compliance with other Code requirements such as; side yard setback, exterior building materials, and impervious surface. The lot is unique as it is located at the beginning of a cul de sac. If the home was positioned differently on the lot and shifted further north there would potentially be room for the Applicant to construct the proposed porch within setback requirements. The property is also unique with the three-story apartment building located to the east. The Applicant has said there are at least six decks that overlook the property reducing the amount of

privacy in the back yard. Staff believes that a reasonable use of the property has been established with the house. There is space on the rear of the property to add a porch addition that could be in compliance. Allowing the location and size of porch in the front yard could be considered a convenience to the Applicant and not a practical difficulty. Approving the variance could set a precedent for other front yard encroachments, especially in cul de sacs. Based on information provided Staff recommends denial of the request.

She stated an email was received from a neighbor directly to the south who is in support of the request. There is also a Petition with 29 homeowner signatures on it supporting the request.

Chair Niemioja asked if the deck would be approved at the size requested if it didn't have a roof.

Ms. Botten responded the deck could encroach up to 6 feet of the 30 feet. It requires a 24-foot setback.

Commissioner Scales referenced the estimate of 19 feet on one corner to the easement and asked if there was an estimate on the other corner.

Ms. Botten replied it was approximately 23 feet.

Opening of Public Hearing

George Guevara, 7086 Delaney Avenue, stated he has read and understands the report. He requests 1 foot on the northwest corner and 7 feet from the 30-foot setback on the southwest corner. When measuring from the setback he measured from the inside of the curb and measured 54 feet. He mentioned the bottom side is 7 feet from the front of the house to the 30-foot mark. He said if 6 feet is allowed for uncovered, this is just another foot.

Chair Niemioja requested clarification on the discrepancy.

Mr. Guevara said he didn't know what the setback was and determined it was 13 feet. He measured from the 13-foot setback to the front of his house. He measured from the grass side giving him another 6 feet to work with.

Ms. Botten said the Applicant is talking about the right of way. She stated she measured from the front of the curb; Mr. Guevara is measuring from the back of the curb.

Mr. Guevara said it's 39.6 feet from the back of the curb to the front of his home. Adding another 6 inches brings it to 40 feet. On the bottom side he has it at 34 feet from that 30-foot setback. It's actually 34.6. He said he is asking for 1 foot on one side and 7 feet on the bottom side. He said he wasn't going to enclose it; he would just put a roof over it. He said they had a tree fall on the house in the last storm and they hang out in the front because of the apartments in the back. There is a playground, it's loud, there's music playing. He said they like to sit in the front, they lost the shade of the tree, and would like something to put their swing under. He said he spoke to all of his neighbors and if they supported him, they could sign the Petition.

Chair Niemioja said there wasn't a Policy for dealing with Petitions. She appreciated Mr. Guevara having his neighbors sign, that means more to the Commission than a list of people.

Commissioner Challeen asked what the significant change was between a deck versus an unenclosed porch. She asked if putting a roof on it makes it an extension of the home even if it is still open to the elements.

Ms. Botten responded replied in the affirmative.

Commissioner Clancy asked if it was his intention to cover the entirety of the deck. He asked if there was further detail that could be provided to the Commission.

Mr. Guevara responded he sent in a picture. It would go right over the front door and window to block some of the sun out.

Commissioner Robertson referenced the photo provided and asked how far the roof extension would extend out from the house.

Mr. Guevara responded he was going to request 10 feet, but is requesting 11 feet so he misses the concrete sidewalk to put the footings in.

Chair Niemioja closed the public hearing.

Planning Commission Discussion

Commissioner Weber asked if the setback was known for the house to the north.

Ms. Botten replied she did not.

Mr. Guevara responded he measured, they are all at 28 and 26 feet, they are encroaching on the 30-foot setback.

Chair Neimioja said she would be reticent to say that any kind of surrounding density would be a Practical Difficulty. She said the Commission should be looking for another type of Practical Difficulty such as shape of the lot or something different.

Commissioner Scales stated the Practical Difficulty he noticed would be the way the road is laid out. It's unique with a half turnaround/half cul de sac. He said if that wasn't there, they would not be discussing this. He said he was fine with using the layout of the lot and road as a Practical Difficulty.

Commissioner Robertson mentioned she drove by and noticed he is working on putting the house back into a good condition. She said it was an odd shaped road, there are odd shaped roads all over town. They don't use odd shaped roads as a Practical Difficulty. She noticed there are variations of setbacks with all of the houses on that street. She appreciated how consistent the front area looked. There wasn't anything sticking out, cutting the aesthetic or view, it conforms to the road. She said in a majority of residential areas there are people with kids or dogs living behind them and have decks. She drove through the apartment complex and noted the height of the fence saying anything would be hidden by that fence. She said she is struggling to see why they would change the front of this house and add something to it that is not consistent with the rest of the neighborhood. She said the notion of an apartment building meaning people can't use a porch or deck in the back would be an argument for anybody who had a house and kids and dogs. She said she struggles to approve it for just that reason.

Motion by Commissioner Weber, second by Commissioner Challeen, to accept all information received on this item into the record.

Motion carried (8/0).

Commissioner Clancy stated from what they have learned from Staff and City Ordinances is that a front porch can still be allowed under normal circumstances. It's not uncommon to find that around various neighborhoods. He said the question is if they can allow the Practical Difficulty of allowing this to encroach along the setback. He said front porches are found in the community, allowed by Ordinances, and not something out of character leads him to say he can support the variance.

Chair Niemioja believed they may start seeing more of these requests because the aesthetic change might be coming. She said she looks forward to City Council guiding the Commission.

Commissioner Robertson mentioned one of the concerns she always has is setting a precedent. What has just been described sets a precedent. She questioned where they draw the line. She asked what kind of scenario they open up that has the potential to change the nature of that street. She said they are in fact saying they are setting a precedent.

Planning Commission Recommendation

Motion by Commissioner Scales, second by Commissioner Weber, to approve based on the Practical Difficulty of the road and the lot with the two conditions listed for property located at 7086 Delaney Avenue

Motion fails (4/4). This item will go before the City Council on November 20, 2021.

Chair Niemioja stated these are good things for the City Council to discuss on whether or not that Practical Difficulty is going to get accepted.

Commissioner Simon said it doesn't mean this is a dead end.

Commissioner Weber suggested when Mr. Guevara takes this item before the Council, he should mention that the porch would line up with the front corner of the neighboring home to the north. That could be added on as a Practical Difficulty, that the Applicant would be creating a general alignment with the contiguous homes around him.

Commissioner Robertson questioned if that was a Practical Difficulty or if it was an aesthetic.

SOLOMON DAVID - CASE NO. 21-60PAZ

Reading of Public Notice

Commissioner Simon read the public hearing notice to consider the request by Solomon David - Case No. 21-60PAZ for property located at 10045 Courthouse Blvd. The request consists of a Comprehensive Plan Amendment to change the land use designation from RDR (Rural Density Residential) to L-1 (Light Industrial) and rezoning from B-3 (General Business) to L-1 (Light Industry). Notices were mailed to 28 property owners on November 3, 2021.

Presentation of Request

Allan Hunting, City Planner, discussed the property located between 105th and 96th along the west side of the freeway. The Applicant/Landowner is proposing to change the Comprehensive Plan and rezoning to an Industrial Use. It is currently zoned B-3 (General Business Retail District) zoning is proposing a change to I-1 (Light Industrial). The Comprehensive Plan would have to be changed because it's currently Rural Residential needing to go to Light Industrial. He said the Applicant had stated previously that their intent was always to either sell or operate a mini storage business. When mini storage was proposed on Cahill and Council did not like to have mini storage in B-3 Districts, they amended the Code and removed the use from B-3. That impacted what the Applicant was proposing to do with their site. He said the Council suggested the Applicant apply to amend to an I-1 zoning as that allows mini storage as a conditional use. The Application is to change the zoning and Comprehensive Plan, there is no proposal for a use.

He discussed the site stating it has been zoned B-3 since the 1990's. There hasn't been a city or Council approved commercial type use on the site. There has been mini storage immediately to the south along the frontage road. It's consistent with zoning and proposed use. In the

Comprehensive Plan the landowner adjacent had requested a Comprehensive Plan Amendment because they had thought of doing an industrial use. Council approved that Comprehensive Plan Amendment, there has been no rezoning or city approved industrial use there. There are other industrial guided properties in the area and would be consistent with other Comprehensive Plan use in the area. Properties would be using the frontage road which is intended at some point, to extend further south to 117th Street. In summary, this is consistent with other uses in the area, other guiding, MnDOT frontage road. He said the City Council suggested the Applicant make application and go through the process to see if they would be successful. The Planning Commission would make a recommendation on the rezoning and Comprehensive Plan.

Opening of Public Hearing

Solomon David, 1206 60th Street West, stated he has read and understands the report. He said the only reason this is going through is because the City Council changed the zoning on allowed uses on his property otherwise, he wouldn't be pursuing it at all. He said there is no planned uses for the property, he is trying to protect his investment.

Edward Honnecke, 9955 Courthouse Boulevard, said he has lived on the property north of this location since 1984. In the course of those years two problems have been consistent, theft and garbage dumping. With theft he said people could be traveling through the area. Garbage dumping includes bags of leaves, building materials, couches.

Chair Niemioja requested clarification on where the dumping was taking place, his property or the proposed property.

Mr. Honnecke responded it was mainly at the end of his driveway. There was a street light in the area that hasn't been replaced in about 6-8 months. He suggested the city put the light on, it may deter people. He said when the Applicant wanted to change the zoning, he spoke to Allan Hunting and Kim Fox, who told him the Applicant didn't want to do anything now, but in the future, he may want to do something like the Inver Grove Storage. He says if driving further down the road, the area is lit up. If the Applicant were to put that type of structure on the property it would light his whole yard, his privacy would be gone, and the value of his property would likely go down. He said if there were storage there in the future, they would need security, lighting, and to watch it. He addressed the garbage dumping saying he cleans a lot of it up and doesn't say anything about it. He said the back of the Applicant's property is more residential. He says his concern is when the Applicant says they won't do anything now, he worries about later.

Chair Niemioja stated if an Applicant were to come through on this for a storage unit, there would be a process with lighting and landscaping. All those would have to come before the Planning Commission and City Council.

Mr. Honnecke commented that things are changing and what they could do in 1984, they can't do now. It's changed and it's confusing. He requested that the light that has been out is replaced and working at the end of the cul de sac.

Chair Niemioja stated that Mr. Honnecke made the right first step in attending this meeting. Information is available on the website, Town Square TV, and a notice would be sent out if there is movement to change something on that property.

Mr. Hunting mentioned that Staff received a phone call and a person came in that lived close to the area. Both were concerned about the use and objected to the change.

Mr. David mentioned half of the property has a high line on it. There is no other use, can't build a house or building on half of the property.

Commissioner Weber said some of the conversation has been about mini storage as one of the reasons why the Applicant is trying to rezone. Land use availability as a B-3 is broader than I-1. With Code, several different business types could be put in that would be more unsavory than what could be done as an I-1. He commented that for him, it's better considering the area.

Chair Niemioja closed the public hearing.

Planning Commission Recommendation

Motion by Commissioner Weber, second by Commissioner Robertson, to approve the Comprehensive Plan Amendment to change the land use from RDR to Light Industrial and rezone from B-3 to a General Business District of I-1 Limited Industry District, with the two conditions listed for property located at 10045 Courthouse Blvd

Motion carried (8/0). This item will go before the City Council on November 22, 2021.

CITY OF INVER GROVE HEIGHTS (Kundla property) - CASE NO. 21-61Z

Reading of Public Notice

Commissioner Simon read the public hearing notice to consider the request for the City of Inver Grove Heights (Kundla Property) - Case No. 21-61Z for property located at 8296 Babcock Trail. The request consists of the rezoning of properties from A, Agriculture to P, Institutional District. Notices were mailed to 12 property owners on November 3, 2021.

Presentation of Request

Allan Hunting, City Planner, discussed rezoning of property south of the City Hall complex at the end of Babcock Trail. The city purchased the property in May 2021. It has been a part of the plan to expand the city complex. The property is currently guided for Public Institutional and rezoned now for use once the city owns the property. It's currently zoned Agriculture and would be zoned for Public Institutional. Staff recommends approval of the rezoning request because it would be consistent with the Comprehensive Plan and consistent with the cities purpose and intent for use of the property.

Commissioner Weber asked if the property south of the location was a residence or business.

Mr. Hunting responded its city owned.

Commissioner Weber asked who John O'Shaughnessy was. He said the County still lists it with John and Christine O'Shaughnessy.

Commissioner Simon responded they were the ones who own property off of 80th.

Mr. Hunting replied city records show it to be city owned.

Opening of Public Hearing

Chair Niemioja closed the public hearing.

Planning Commission Recommendation

Motion by Commissioner Robertson, second by Commissioner Simon, to approve the request consisting of rezoning of property located at 8296 Babcock Trail from A, Agriculture to P, Institutional District.

Motion carried (8/0). This item will go before the City Council on November 22, 2021.

4. OTHER BUSINESS

Chair Niemioja mentioned an email was received about floor area and requested further information from Staff.

Ms. Botten responded it was a follow up from the last meeting. There was discussion about when doing gross square footage, if using outside or inside measurements. Based on the definition of floor area, inside measurements should be used when determining what is out on a property. Moving forward they are not going to change the Building Permit process. Most people will probably put exterior dimensions on a Permit. With variances for sizes, Staff will try to make sure to reflect the inside measurement.

Chair Niemioja mentioned they are grateful to Town Square Television for filming the Planning Commission and city activities. It's nice to have access to on-demand and live television meetings. Town Square Television is a 501c3, if interested in donating to them, Give to the Max Day is on Thursday, November 18, 2021. Visit townsquare.tv if interested in donating.

5. ADJOURN

The meeting was unanimously adjourned at 7:50 p.m.

Respectfully submitted, Sheri Yourczek, Recording Clerk