

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, May 4, 2021 - 7:00 p.m.
REMOTE MEETING

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

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

Commissioners Absent:

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

Chair Niemioja explained the public participation process.

APPROVAL OF MINUTES

The minutes from April 20, 2021 were approved as submitted.

MI HOMES OF ST PAUL/MPLS - CASE NO. 21-26PUD

Reading of Public Notice

Commissioner Simon read the public hearing notice to consider the request for a final plat and final PUD for a plat to be known as South Grove, for the property identified as PID No. 20-01000-77-010. 137 notices were mailed.

Presentation of Request

Allan Hunting, City Planner, explained the request as detailed in the report. He advised that the applicant has submitted plans for Phase I of the South Grove townhome project. The overall plan is for 70 townhomes and 10 single-family lots. Phase 1 is the west side of the project and consists of 36 townhomes and 10 single-family lots. The entire site will be mass graded, and the public streets will be constructed with this phase, along with stormwater improvements. The final plat complies with the conditions of approval from the preliminary plat. Staff recommends approval of the request.

Steve Dodge, Assistant City Engineer, displayed a grading plan that included a rain garden style infiltration feature on the east border which was added by the developer. The water will be treated before it gets to the large stormwater basin in the southeast corner. The resident living near the southeast corner of the MI parcel has a low floor elevation of 852.1 so staff asked the developer to lower the HWL to meet a two-foot freeboard so that everything will be two feet below the low floor elevation. The water in the southeast corner of the site will first come into a sediment basin, then overflow into an infiltration basin, and during big storms the water will go into a dry storage basin. The Oaks have an existing condition where pads got built below the natural overflow and there is nothing the developer or the City can do about that at this point. He advised that they are adding a 27-inch trunk storm sewer to help equalize back to the JP1 pond, streets in that area have new storm sewer systems to take away water, new ponds are being added by the developer, and there is an inlet in the open space that adds capacity. The system is built to help to the best extent

possible to protect the low floors, but they are below the emergency overland flow.

Commissioner Maggi noted that they received several letters from residents who raised concerns about the water, and she questioned whether staff or the developer had met with the neighbors to explain the contingencies discussed tonight.

Mr. Dodge replied that they had not as the questions just came up in the last couple days and they were still working that out with the developer and Barr Engineering.

Commissioner Challeen asked staff to clarify whether there would be an increase in stormwater going to JP1.

Mr. Dodge explained that JP1 is a deep basin that has infiltrated well over the last couple decades. The City built an overflow structure under Clayton Avenue and added storm sewer when they rebuilt Clayton Avenue. The proposed 27-inch trunk storm sewer does not add water to this development. It will continue past the development, past the Oaks, and enter underground into a 33-inch pipe on Conroy Trail.

Commissioner Robertson referred to comments from neighbors regarding mosquito control and asked how that was typically handled in developments.

Mr. Dodge replied that the City will monitor and throw mosquito control pucks in areas that are stagnant. He was not aware of any policy that required developers to do that.

Opening of Public Hearing

John Rask, MI Homes, 5354 Parkdale Avenue, St. Louis Park, advised that he was available to answer any questions.

Chair Niemioja asked Mr. Rask if he read and understood the report.

Mr. Rask replied in the affirmative. He stated that he and Mr. Dodge met with the Oaks HOA Board on April 13 and reviewed the proposal. They also had a neighborhood meeting at the start of this project. He had several additional meetings with some of the Oaks residents. They started out with a high-level plan that was presented at the concept level, then moved to a more detailed plan with the preliminary plat, and now the final plat that is before the commission. There have been changes from the preliminary plat in some of the fine details of the stormwater system, but not in the plat itself. As they have gone through the review process with the City Engineering staff, and their consultant Barr Engineering, they have added more detail to it and will meet the city's design requirements. They have a good track record of dealing with stormwater on their sites and they will not be creating any adverse conditions offsite for this development, and in some areas will even improve the existing situation. Regarding mosquito control, residents have the option to contact the mosquito control district. He advised that they have ponds in all their new developments and generally they flush out between rain events and are designed to prevent stagnant water.

Kathryn Domagall, 3738 Conroy Trail, advised that she emailed her comments in but would like to reiterate that she is concerned about climate change and how this will hold up in the future. Secondly, she is concerned about the property line dispute and access issues for the homeowners who would be affected.

Mr. Rask explained that on the north property line there are fences that were installed by the Oaks that encroach onto the former school property. He does not believe there is a dispute because there is no discrepancy in the legal descriptions. What they have discovered is that the monuments that were put in are incorrect and the Oaks built off the wrong property line. They submitted their plat to the County and Registrar of Titles and the Surveyor has reviewed it, so he is

not concerned about the accuracy of their plans. They would like to be a good neighbor, however, and have agreed to give them the ability to leave the fence where it is. They will provide an access easement to the owners of the affected properties to allow the Oaks HOA to continue to maintain the fence. He was asked by at least one homeowner if they could move the proposed retaining wall in that portion of the site and he agreed to do that at their April 14 meeting. The plans in today's packet were submitted prior to that meeting so that has not been adjusted yet but will be modified when they make their final adjustments as recommended by staff. In his opinion that issue has been resolved.

Commissioner Simon asked when the stormwater maintenance agreement would occur.

Mr. Rask advised that they begin maintaining those areas as soon as the improvements go in until the second phase is up and permanently maintained by the HOA.

Commissioner Simon asked if there would be a written maintenance agreement at some point.

Mr. Rask deferred to staff regarding whether they required a specific agreement between the city, the developer, and the HOA, but stated if not, their HOA documents were set up for the HOA to provide any maintenance of the stormwater facilities that is not provided by the city.

Mr. Hunting advised that stormwater facility maintenance agreements are standard with all developments and outline the responsibilities of the maintenance for stormwater management systems.

Commissioner Robertson asked when they anticipated moving to the second phase of this development.

Mr. Rask replied that their current prediction was 2022.

Ms. Domagall commented that Mr. Rask stated that the fence was built on the property line at the 2/16/21 Planning Commission meeting, but now he was saying it was an error made by the Oaks.

Chair Niemioja suggested that perhaps more knowledge was received since then that changed the situation. She asked if the fence was an issue pertinent to tonight's request.

Mr. Rask replied that the fence is around this property on many sides, and perhaps he was inadvertently speaking about a different fence at the last meeting. The survey has always shown the fence encroachment. They also had a detailed conversation about this in April with the HOA Board and it was known at that time that the fence did indeed exist on the school property. It was his impression that they had an agreement on that point.

Ms. Domagall clarified that she initiated the meeting on April 13, but she initiated it as a concerned homeowner, not as an HOA Boardmember.

Mike Troje, 3746 Conroy Trail, was concerned about the properties near the southeast corner of the new development as it was less than two feet from the elevation of their property. He noted there have been several 100-year floods in the area in the last ten years and asked if there was any way to protect them from flooding.

Mr. Rask replied that they are making some final adjustments to the high-water elevation to provide the city's freeboard requirement. They are meeting the city requirements as noted earlier and are also making some improvements to the existing situation. The area Mr. Troje is asking about is a pre-existing condition in the Oaks neighborhood and they have been careful not to add additional water to that area. To his knowledge the homeowners have never experienced flooding; water just

accumulates in the existing low spot.

Mr. Troje asked who would be liable for any flooding caused by the new development.

Mr. Dodge stated that was a question for the city attorney's office. He advised that everyone is doing what they can to avoid that situation, including having Barr Engineering do a specialized flooding model on the area that confirms that the developer is meeting the pre- versus post-flows and that the water flowing off the site will be less than existing. They are also lowering the high-water line from pre- to post-development.

Angela Kubiszewski, 3728 Conroy Trail, asked if the stormwater plans would guarantee there would not be any additional runoff from the weather changes due to global warming. Also, whose responsibility would it be to pay for mosquito control.

Chair Niemioja replied that she was not sure how mosquito control works with the State but her understanding from Mr. Dodge was that the proposed development would contain more water than it does currently.

Regarding global warming, Mr. Dodge stated they are using the current best management practices for stormwater management throughout the state. A few years ago they were using a 5-inch storm for the 100-year 24-hour storm event. Now they use the Atlas 14 NOAA Event, which increased it to a 7.4-inch storm.

Ms. Kubiszewski asked about safety precautions for the drainage ponds regarding children.

Mr. Rask advised that parents would want to watch their children just as they would around any water body. They typically do not fence in their ponds and they are maintained as natural areas. There is a perimeter fence, however, around the Oaks development.

Chair Niemioja asked if they would be installing anything around the ponds to make them more attractive to children like flowers or sand.

Mr. Rask replied they were not as they were simply a stormwater feature. They would, however, try to enhance them with a typical seed mix to make them aesthetically pleasing.

William Scott, 3732 Conroy Trail, advised that he lives on the far east end of the proposed development and is a sitting boardmember for the Oaks HOA. He asked for clarification of whether the developer was meeting the two-foot freeboard requirements from the lot line.

Mr. Dodge stated that typically they look at the lowest openings in structures being protected rather than from the edge of property. The developer is below the two-foot freeboard between the high-water line and the lowest opening in this case. If they wanted to tweak it down further, they would have to work with the developer and his engineer.

Mr. Rask agreed that the two-foot freeboard was from the lowest opening not the adjacent property line. He noted that currently the east edge drains towards the east back to the Oaks residents and that is where he thinks they are making the biggest improvements to the existing situation. The proposed stormwater plan intercepts a lot of that water and drains it into the storm sewer or pond.

Nick Polta, Pioneer Engineering, agreed with Mr. Rask, stating that this site basically drains to the east onto the Oaks property. Their proposed plan will intercept that water. They can reduce the rain garden elevation to two feet below the low opening of the neighboring properties which will meet the City's requirements. They would have to review it again to see if it could be lowered any further.

Mr. Scott stated that while he understood what they were saying he was not confident that the outcome would be as great as they are saying it would be. He stated that Phase 2 shows a large amount of impervious coverage that relies on a small area to absorb the runoff and divert it into the storm system. In the northeast corner of the property there are no storm sewers, and he is also concerned about melting from snow storage on the east end of the property. He advised that a new basin was added on Friday, but it did not give him enough time to review or respond to the changes. Finally, on the north end of the property and the retaining wall, in his opinion the Oaks HOA has the understanding that the fence line is the property line. He did some research on adverse possession and it suggests that if the fence has been there more than 15 years undisputed that property therefore becomes the Oaks. If that is the case, he questioned whether there would be a setback issue.

Mr. Dodge responded to the comment about snow storage, stating he is asking the developer to add an overflow structure which should resolve that concern. This, and maybe some storm sewer, would make sure that the high-water mark is maintained in that corner at the level they promised. He would like to also set up infiltration features within the city so they are offline rather than online. He asked Mr. Polta to address the second question regarding drainage from the buildings and private streets in Phase 2.

Mr. Polta advised that they studied the 10-day snow melt, which is essentially a storm event similar to the 100-year event. Instead of 24 hours the 10-day snow melt is 10 days. The snow melts and trickles in and trickles out and the high-water elevation overall will be lower than in the 100-year storm event. There is an emergency overflow in that basin that is lower than the berm that goes onto the neighboring property to the east, and this provides another level of protection for the neighbors to the east. The basin picks up water from the Oaks to the north which was always an area the Oaks considered a problem because it does not drain anywhere as there is no outlet. Their stormwater plan provides an outlet for that. He provided additional modeling to the city yesterday that will address most of the issues discussed.

Chair Niemioja asked if the adverse possession issue was within the planning commission's purview.

Mr. Hunting replied that it was not and that he would have to check with the city attorney.

Mr. Scott advised that the retaining wall on the north side of the property sits about two feet from the fence which is not enough space for someone to get back there to maintain the fence or even use as a fire escape. The homeowners in that area have no way out of the back yards other than through that fence.

Jacqueline Rayfield, 3724 Conroy Trail, stated she was concerned about the children's safety because of the additional traffic and where they would play. She stated the park was too far away, so children have been using the school lot for play. She would like to keep the traffic down for the safety of the kids.

Chair Niemioja asked staff to address traffic safety.

Mr. Hunting advised that the development includes a pedestrian sidewalk system and there is a park south of this development on 78th Street. He advised that the Parks Commission reviewed this development and recommended a cash contribution in lieu of parkland because of the nearby park.

Ms. Rayfield questioned whether the park on 78th Street could handle the additional children from this development and stated the park did not include any amenities except a hockey rink and

playground area.

Commissioner Niemioja stated that park amenities was beyond the planning commission's purview, but her comments would be well received by the City's Parks Commission.

Chair Niemioja closed the public hearing.

Planning Commission Discussion

Chair Niemioja thanked the neighbors for their thoughtful comments and staff and the developer for their level of work on this project to try to make sure it would not negatively impact the neighborhood. She advised that she checked with District 199 schools and they confirmed that under the new laws they cannot use this property anymore.

Commissioner Maggi noted all the updates referenced by Mr. Dodge and the developer and questioned whether what was in front of them was the most current plan. If not, she suggested they address that in the conditions or request an updated plan.

Chair Niemioja asked staff to comment.

Mr. Hunting advised that the final plat includes a standard condition that all plans must be approved by the City Engineering Department. He agreed that some tweaks were made later in the process, but the Engineering staff is confident that the final plans will meet the requirements. No construction can begin until the City Engineer signs off on the plans.

Mr. Dodge agreed, stating they are asking for adjustments to the plan but not a revised overall concept of the plan. Staff will request that the applicants address the comments brought up tonight so that the most current plan set is brought to Council.

Commissioner Robertson commended the neighbors who sent emails and called in tonight for setting a good example for citizens wishing to be heard and involved in the decision-making process.

Motion by Commissioner Weber, second by Commissioner Robertson, to receive four additional emails into the official record.

Motion carried (9/0).

Commissioner Challeen asked if there was anything preventative the commission should be recommending to further protect the neighbors abutting the southeast portion of this development, such as berming.

Commissioner Simon stated that Mr. Dodge mentioned that a berm would not be beneficial in that area.

Commissioner Challeen asked staff to clarify previous comments regarding berming.

Mr. Dodge deferred to the design engineer, Nick Polta.

Mr. Polta stated that they are excavating an additional basin for additional storage in the southeast corner of the development to keep runoff from smaller storms completely off the Oaks property as a first level of protection. They are lowering the high-water elevation of that pond by three-tenths in the plan that you see before you tonight and are planning on lowering it another two-tenths based on additional modeling. If they added berms the water from the dry basin would not go onto the Oak's yards but their water would have no place to go, and they would potentially be making little

bathtubs in their back yards. For that reason they would prefer not to add berms.

Planning Commission Recommendation

Motion by Commissioner Weber, second by Commissioner Challeen, to approve the final plat and Final PUD for a plat to be known as South Grove, for the property identified as PID No. 20-01000-77-010, with the conditions listed in the report and a recommendation that City Council receive the most current plans and include the minor water level changes.

Motion carried (9/0). This item goes to the City Council on May 24, 2021.

The meeting was unanimously adjourned at 8:22 p.m.

Respectfully submitted,

Kim Fox
Recording Secretary