

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, April 20, 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.

JIM AND LORA KRECH - CASE NO. 21-18S - Tabled from April 6, 2021

Reading of Public Notice

The public hearing notice was read at the April 6, 2021 Planning Commission meeting.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the applicant resubmitted a new plat earlier today that complies with the City's accessory structure requirements; therefore, a variance is no longer being requested. The applicant is requesting a preliminary and final plat to adjust the lot boundaries on three lots into three new lots to be known as Oakbush Fifth Addition. There is an existing home and detached structure on the current larger lot and the other two lots are vacant. The applicant would be increasing the size of the two vacant lots to make the lots more appealing and buildable. As a result of the replat, the applicant is requesting to vacate existing easements; new perimeter easements will be included with the proposed plat. Two of the lots access onto Blaine Avenue and 62nd Street and one lot accesses onto Blackberry Trail. The proposed plat shows the perimeter drainage and utility easements abutting at the end of the flag lot portion of the plat. Staff is recommending that a minimum 12-foot space be required between the two easements for a driveway to be installed sometime in the future that would comply with code. Staff recommends approval of the request with the conditions listed in the report.

Commissioner Maggi asked if the existing accessory structure met setback requirements.

Ms. Botten replied in the affirmative.

Commissioner Robertson asked if the property owner intended to use the existing accessory structure for a home-based business.

Ms. Botten stated her understanding was that it was for the property owner's personal use.

Opening of Public Hearing

Jim Krech, 2585 - 62nd Street East, advised he was available to answer any questions.

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

Mr. Krech replied in the affirmative.

Chair Niemioja asked the applicant if he planned to use the accessory structure for a business.

Mr. Krech replied he did not; it was his woodworking shop.

Chair Niemioja closed the public hearing.

Planning Commission Recommendation

Motion by Commissioner Weber, second by Commissioner Clancy, to approve the request for a preliminary and final plat for a subdivision to be known as Oakbush Fifth Addition, adjusting existing lot boundaries, and a vacation of drainage and utility easements within Lot 4, Block 1, Oakbush Second Addition, Lot 2, Block 1, Oakbush Third Addition, and Lot 1, Block 1, Oakbush Fourth Addition.

Motion carried (9/0). This item goes to the City Council on April 26, 2021.

CITY OF INVER GROVE HEIGHTS (MARKET GARDENS) - CASE NO. 20-33ZA

Chair Niemioja noted that the Planning Commission received additional comments today and asked staff if they needed to be accepted into the public record.

Mr. Hunting replied that it would be a good idea to include the summary of survey results that he forwarded to Planning Commissioners today as part of the record.

Motion by Commissioner Challeen, second by Commissioner Wippermann, to accept into the record comments received from staff earlier today.

Motion carried (8/0). Commissioner Simon temporarily lost connection to the virtual meeting and was unable to vote on this motion.

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for an ordinance amendment to Title 10 of the City Code (Zoning Regulations) to allow Market Gardening as an allowed use in the E-1, E-2, R-1A, R-1B, R-1C, R-2, and Single-Family Planned Unit Development zoning districts. No notices were mailed.

Presentation of Request

Allan Hunting, City Planner, explained the request as detailed in the report. He advised that the Planning Commission reviewed this amendment in November 2020. The Commission wanted additional information from the applicant and asked that a survey be conducted. The results of that survey were submitted with the packet and he provided additional comments earlier today. Generally, a market garden is similar to a personal garden except that retail sales would be allowed. A draft ordinance is included in the packet and Ms. Gaetke provided a matrix comparing information from other cities. Currently the draft ordinance is set up to be only in single-family districts. Mr. Hunting began having connection issues and hung up to try to reconnect.

Opening of Public Hearing

Dawn Gaetke, 7477 Cahill Avenue, stated she was available to answer any questions.

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

Ms. Gaetke replied in the affirmative. She advised that she and staff differ on a couple of points but are overall in agreement on the proposed ordinance amendment. She asked if commissioners had the opportunity to read the report and additional information.

Chair Niemioja replied that they read the report that was available last Friday, and planning commissioners also received additional comments earlier today.

Ms. Gaetke advised that the survey showed overwhelming support for allowing market gardens, 57% did not think a license should be required, and 56% thought there should be no neighbor notification required. Regarding Mr. Hunting's concern about the length of the sales period, she noted that City Code 10-15-27 allows agricultural product stands in the estate district from May 1 to November 5, and IGH's farmers market runs from mid-June to mid-October. In her opinion the draft language limiting the sales period should be extended past 75 days to better mimic the growing season. She was opposed to shortening the sales period below 75 days but would consider perhaps allowing property owners to sell only so many days per week.

Chair Niemioja asked the applicant if she had any comments about hoop structures.

Ms. Gaetke stated none of the residents who responded to the survey listed concerns about hoop structures in general. If allowing hoop structures would prevent the ordinance from being approved; however, she would be agreeable to prohibiting hoop structures.

Chair Niemioja stated that could be because hoop structures have been prohibited.

Ms. Gaetke stated that if the ordinance passed it was unlikely that hoop structures would appear everywhere as growers would still need to have their soil tested, make application, and take other additional steps.

Commissioner Clancy asked if there was a monetary limit on how much someone could sell stipulated in the draft ordinance.

Ms. Gaetke replied that the Food Cottage Law has a maximum of \$18,000 a year but none of the Minnesota cities that allow market gardening have put a limit on it.

Commissioner Maggi questioned how they should address the growing season for various crops that may not be continuous.

Ms. Gaetke suggested they address it by limiting it to 75 consecutive days in a calendar year or, if the real concern is traffic, they could limit the sales days to one day a week throughout the growing season. Some mushrooms peak in May while others do not peak until late fall. Mushrooms in particular should be sold as soon as possible once they start fruiting.

Commissioner Robertson thanked Ms. Gaetke for her interpretation of the survey results and asked what motivated her to recommend a 75-day limit when 35 days was the typical number of days allowed in other cities.

Ms. Gaetke replied that she chose 75 because it was the highest number of the three cities represented. She would prefer a longer period.

Commissioner Robertson commented that community gardens and farmers markets were a very different situation from market gardens as they were not located in residential areas. She asked the applicant what her thoughts were on the potential traffic impacts on residential streets.

Ms. Gaetke stated market gardens were not intended to generate a flood of traffic but rather were aimed at neighbors who would be biking, walking, or driving by anyway.

Commissioner Robertson asked if hoop structures were currently prohibited or counted as an accessory structure.

Mr. Hunting replied that hoop structures as an accessory structure are not allowed in any of the residential districts. City Council intentionally changed the ordinance quite a few years ago to prohibit them. Staff would not support allowing hoop structures for this growing.

Commissioner Challeen questioned why the time period was 75 days when the growing season was more like 120 days and one of the benefits of market gardens was to have produce available beyond when it would normally be available at stores or farmers markets. She suggested perhaps allowing it on fewer days per week but having a longer season.

Commissioner Maggi questioned what type of products would bear fruit or vegetables for 120 days.

Commissioner Challeen replied that would depend on how a gardener rotated their garden. They may start with one product but then plant a second vegetable.

Commissioner Maggi stated that the space you would need to do that seemed unlikely on a residential lot.

Ms. Gaetke advised that some of her friends who are intensive gardeners produce from May to October on their residential lots. Their growing season is definitely more than 75 days.

Chair Niemioja stated they could also run into a situation where someone grows a vegetable in the spring and pumpkins in the late fall, but they are not selling all of those days.

Commissioner Kramer felt that with the maximum days allowed, traffic concerns would be tempered by the size and scale of the operation. His biggest concern is where the lines get blurred between a personal market garden versus a quasi-commercial operation on a larger property where owners are constantly growing and selling. That is where potential traffic issues could arise. He asked the applicant to address staff's suggestion of a 10,000 square foot break point.

Ms. Gaetke agreed with 10,000 square feet being the break point for the growing area size. She did not think it was unreasonable to require a conditional use permit for growing areas larger than 10,000 square feet.

Commissioner Simon stated in her opinion a 10,000 square foot garden would be more of a business garden.

Ms. Gaetke replied that is why staff suggested that anything over 10,000 square feet would require a CUP.

Commissioner Simon asked when a market garden would become a business garden.

Ms. Gaetke stated that was difficult to answer because people sell goods with market gardens so technically it is a business.

Commissioner Simon stated in her opinion a market garden is what people normally do only ordinarily they would give their extra produce away and now they would be selling it. If someone is selling continuously, she would consider that more a business garden.

Ms. Gaetke stated allowing people to only sell once per week could address that issue.

Commissioner Robertson asked the applicant her thoughts on why some other cities limited their selling to 35 days.

Ms. Gaetke stated that Maplewood, St. Paul, and Minneapolis had very different limits, but she was unsure as to the reasons for the difference.

Chair Niemioja noted that Mr. Hunting had regained his virtual connection and she asked him to finish his presentation.

Mr. Hunting advised that commissioners had hit most of the issues he was planning to point out (i.e., intensity, size limit, and duration of sales period). Staff is opposed to allowing hoop structures and thinks there should be a permit required so there is a way of tracking these.

Commissioner Robertson asked what would happen if a grower lived in an area with a homeowner's association that prohibited market gardens.

Mr. Hunting replied it would be up to the individual to check with their HOA and it is possible that market gardens would be disallowed in some particular neighborhoods. HOA's have their own guidelines and approval rights for something like this.

Commissioner Robertson asked if the proposed setback between the garden and the property line was five feet.

Mr. Hunting replied in the affirmative, stating it was based on the regulations for community gardens.

Commissioner Robertson stated it seemed like a narrow setback and asked if that was consistent with other uses.

Mr. Hunting replied that personal gardens do not require any setback and can go right up to the property line. Staff felt the setback should be consistent with community gardens so there is some type of separation between the neighbors.

Commissioner Weber supported allowing market gardens but would like to use a ratio system of lot size to garden size rather than a specific number. A 10,000 square foot market garden on a 12,000 square foot lot was completely different than on a 2.5-acre lot.

Commissioner Kramer asked if the ordinance was written specific to the actual homeowner or could a person lease out their space to a third party. That is where the lines get muddled between a passion project and a commercial endeavor.

Mr. Hunting was not sure the ordinance was that specific, but language could be added to clarify that point.

Ms. Gaetke stated that language addressing that could be added under Condition 1 so it would read 'the only product sold is the market garden produce grown on the property **by the property owner**'.

Chair Niemioja suggested perhaps being even more specific about the language, such as adding '**the property owner who resides on the property**'.

Commissioner Kramer supported allowing market gardens, he just had concerns about it becoming more commercial.

Ms. Gaetke suggested addressing commissioner concerns by changing the ordinance to extend the sales season but allowing sales only one day per week.

Commissioner Weber stated he was not comfortable allowing 10-foot-high signs.

Ms. Gaetke clarified that the latest version of the draft ordinance allowed a maximum of a 6-foot sign to be displayed only during the sales season.

Commissioner Robertson supported the concept but would like to add language regarding Commissioner Weber's suggestion of adjusting the proposed maximum size to a ratio system and also requiring that the garden be in the back yard. She was not comfortable with allowing market gardens in the front yard.

Commissioner Wippermann stated he would prefer to restrict market gardens to back yards as well.

Ms. Gaetke commented that personal gardens are currently allowed in front yards and the City might get pushback from gardeners because sometimes the sun hits people's front yards versus back yards.

Chair Niemioja closed the public hearing.

Planning Commission Discussion

Chair Niemioja stated that hoop structures not being allowed would naturally shorten the sales period by not extending the growing season. She noted that limiting sales to one day a week could potentially make traffic more of an issue. She was not too worried about garden size as long as they met setbacks and she did not have an issue with allowing market gardens in front yards because of sunshine availability.

Commissioner Robertson stated she would struggle with allowing market gardens in front yards as it could be an eyesore and would be inconsistent with the rest of the neighborhood. Regarding the fact that personal gardens are allowed in front yards, they are delineating that there is a difference between the two, so she did not believe market gardens needed to follow the same rules as personal gardens.

Commissioner Wippermann asked if vegetable stands on residential lots were currently restricted.

Mr. Hunting replied they are not allowed on the sidewalk or in the right-of-way on a boulevard.

Commissioner Wippermann asked if there was a size restriction.

Mr. Hunting replied that most vegetable stands would likely be temporary pop-up tents for the days they are going to sell. Anyone wanting to build a stand would have to meet city code requirements for setbacks.

Commissioner Clancy recommended that they think of this as a lemonade stand where members of the community set up a stand to sell produce and neighbors have the opportunity to stop by and purchase items. Other commissioners have suggested that we use a ratio system and 10% of the lot size seemed reasonable to him. He would also support treating these as lemonade stands and not requiring permits. If they disallow market gardens in the front yard, he thinks there should be a follow-up amendment disallowing any gardens in the front yard because they could get into a gray area with market gardeners growing something in their front yard but stating it is for their personal

use, not their market garden.

Commissioner Maggi supported using a ratio system to determine maximum growing area but had reservations with limiting sales to only one day a week. If someone wanted to buy fresh produce from their neighbor, they would not want to purchase something that was picked on Tuesday, but they could not buy until Saturday. It would defeat the purpose of market gardens. She thought 75 consecutive days was a good starting point and they could reevaluate it later and amend it if needed. She recommended removing Item G regarding hoop structures and following the existing ordinance.

Commissioner Challeen asked if the 75 sales day had to be consecutive or could there be breaks in between.

Mr. Hunting replied that he reads it as being 75 consecutive days after the first sale day.

Chair Niemioja stated she read it as 75 days total, but they did not necessarily need to be consecutive.

Commissioner Challeen stated she read it the same as Chair Niemioja.

Commissioner Clancy stated he interpreted it as if the window of selling started on June 1 a grower would be able to sell for the next 75 days.

Commissioner Maggi stated she read it the same as Commissioner Clancy.

Chair Niemioja stated if they did not use specific start and end dates this could result in a loophole.

Commissioner Challeen suggested using the Minnesota outdoor growing season as beginning and end dates.

Commissioner Robertson stated she wants to avoid a situation where someone would sell for a couple days, take a break, and then have the 75 consecutive days start over again. Instead, they could remove the word 'consecutive' and just state a maximum number of selling days allowed.

Commissioner Weber supported the idea of removing the word 'consecutive'. That would allow someone to sell one product in the spring and another in the fall. 75 days seemed a little excessive to him, but he would agree to it.

Chair Niemioja summarized the discussion, stating generally commissioners would not like to see this in front yards, they should use the most current language regarding the size limitation of signs, the maximum number of selling days should be 75, the word 'consecutive' should be removed, and the hoop structure language should be removed.

Commissioner Maggi asked if prohibiting market gardens in front yards would impact the personal garden rules.

Mr. Hunting replied that it would not as they were defining a market garden as being different from a personal garden.

Chair Niemioja noted that commissioners also thought a size limit of 10% of lot size seemed reasonable.

Commissioner Maggi asked for clarification on the sign size.

Commissioner Weber replied that they should be less than 6 feet high, no larger than 6 square feet, and should only be displayed during the sales season.

Mr. Hunting asked for clarity on whether permits should be required.

Commissioner Clancy stated that a permit would help them track the 75-day selling limit.

Chair Niemioja did not think the permit would necessarily mark the start of the sales and asked if it would be a permit that would need to be renewed every year.

Mr. Hunting replied that it was set up to be a one-time permit that would not require an annual renewal. The permit would give the City a general record of the market garden and the fee would cover the administrative costs.

Commissioner Robertson commented that she sees value in a permit as it is an additional step that clarifies the guidelines and rules for the applicant.

Chair Niemioja supported requiring a permit as well, stating it would also help from a code enforcement standpoint. We have established a general consensus that permits are acceptable, no front yard specifically to market gardens, cut any language supporting a hoop structures, signs no larger than 6 sf and shorter than 6 feet and only on the days for sales, a maximum number of 75 selling days and the size of the garden would only be allowed to be up to 10% of the total lot size.

Planning Commission Recommendation

Motion by Commissioner Weber, second by Commissioner Robertson, to recommend approval of an ordinance amendment to Title 10 of the City Code (Zoning Regulations) to allow Market Gardening as an allowed use in the E-1, E-2, R-1A, R-1B, R-1C, R-2, and Single-Family Planned Unit Development zoning districts, with the recommendation that permits are required, market gardens are not allowed in front yards, the removal of language supporting hoop structures, signs can be no larger than 6 square feet in size and 6 feet in height and only displayed during the sales season, a maximum of 75 selling days with the word 'consecutive' removed, and allowing the garden to be up to 10% of the total lot size.

Motion carried (9/0). This item goes to the City Council on May 10, 2021.

CITY OF INVER GROVE HEIGHTS (ACCESSORY BUILDINGS) - CASE NO. 21-24ZA

Reading of Notice

Heather Botten, Associate Planner, read the public hearing notice to consider the request for an ordinance amendment to Title 10 of the City Code (Zoning Regulations) to allow the size of accessory buildings on lots 2.5-5.0 acres in size, the A, Agricultural District and E-1, Estate Residential District to be based on a ratio system depending upon lot size. No notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that Council directed staff to move forward with a possible ordinance amendment relating to the maximum size of accessory structures allowed on lots that are closer to the 5-acre lot size that are zoned Agricultural or E-1. Currently accessory structure requirements are addressed in Section 10-15-18, Accessory Structures. They are also addressed in the bulk standard sections of the residential zoning districts. Lots zoned E-2, R-1 and R-2 are allowed one detached structure up to 1,000 gross square feet. Lots zoned A and E-1 that are less than 2.5 acres are allowed one

detached structure up to 1,000 gross square feet, lots 2.5 acres or greater but less than five acres are allowed one detached structure up to 1,600 gross square feet, and lots greater than five acres would be allowed two detached accessory buildings up to 2,400 gross square feet. By suggestion of the Planning Commission, and by Council direction, it was suggested that lots closer to the 5-acre lot size be allowed an accessory building larger than 1,600 but less than 2,400 gross square feet. One way to do this would be a ratio system versus the current range system. The maximum detached accessory structure currently allowed in the City is 2,400 square feet for lots zoned A or E-1 with a lot size that of 5 acres or greater. If you divide 2,400 by 5 acres, it equals 480 square feet per acre. Using this ratio system, you would multiply 480 times the lot size to determine the maximum size structure allowed on a specific lot. This ratio system would benefit lot owners that have a lot 3.3 to 5 acres in size. Lots less than 3.3 acres in size would benefit more from the existing ordinance, therefore lots 3.3 acres or less would use the current range system. Staff recommends approval of an ordinance amendment for lots zoned A or E-1 that are 3.3 to 5 acres in size.

Chair Niemioja asked if the discussion was limited to just size at this point and not number of structures.

Ms. Botten replied that at the Council work session they discussed residential properties that do not have an attached garage possibly being allowed to have more than one detached structure. It was determined that this potential ordinance amendment would be put on hold until staff was able to do more research.

Commissioner Robertson asked for clarification of attic and loft space.

Ms. Botten replied that the current and proposed ordinance counts both levels towards the gross square footage of an accessory structure. If the area within the attic has a truss system it is not counted, but if there is a knee wall, dormers, etc. and it is more habitable usable space then it counts towards the total square footage.

Commissioner Maggi asked why staff only looked at 2.5 - 5 acre lots because lots up to 2.5 acres are allowed up to 1,000 gross square feet which equals 400 square feet per acre whereas lots larger than that are allowed 480 square feet per acre with the proposed ordinance. She questioned whether they should use the ratio system for all lots regardless of size.

Ms. Botten noted that a 2-acre lot multiplied by 480 would equal 960 square feet.

Commissioner Maggi noted that a 2.5-acre lot multiplied by 480 would go over the 1,000 maximum.

Ms. Botten stated that 2.5 multiplied by 480 would equal 1,200 whereas our current ordinance allows 1,600 square feet.

Commissioner Maggi stated her point was that there was a gap. She asked if the intent was to apply a ratio approach to accessory structures regardless of lot size or was the intent only to address 3.3 to 5 acre lots. The proposed ordinance was essentially adding another category that is treated differently than all other categories.

Chair Niemioja stated that they certainly do not want to use this calculation for a 50-acre lot.

Commissioner Simon asked if the existing setback requirements would remain in place.

Ms. Botten replied in the affirmative. Any accessory structure over 1,000 gross square feet in the A and E-1 districts would still require a 50-foot setback.

Commissioner Robertson commented that the ratio system would be a negative for the landowner of a property 2.5 acres in size.

Commissioner Weber replied that was why staff was only applying the ratio system to lots 3.3 acres to 5 acres. He asked if anything under 2.5 acres would be considered E-2 rather than E-1.

Ms. Botten replied that the E-1 district has a minimum lot size of 2.5 acres but there may be some legal non-conforming lots in the City that are less than 2.5 acres.

Commissioner Weber asked which guidelines the owner of a 2.5-acre non-conforming E-1 lot would follow.

Ms. Botten replied that based on the way the ordinance is proposed if you are zoned E-1 and less than the 3.3 acres you would follow the current range system. She noted that she now understood Commissioner Maggi's point about there being a gap if you are less than 2.5 acres in that multiplying their lot size by 480 may benefit them. However, her understanding from previous discussions was that commissioners and councilmembers were focusing on those lots closer to the 5-acre range.

Commissioner Robertson asked for clarification of why they started at lots 3.3 acres in size.

Ms. Botten replied that they did not focus on lots less than 2.5 acres. Lots from 2.5 to 3.3 acres would benefit more by using the current system. Lots larger than 3.3 acres would benefit more by applying the proposed ratio calculation.

Opening of Public Hearing

Dawn Gaetke, 7477 Cahill Avenue, noted that she paid a \$350 application fee for the proposed market garden ordinance amendment and asked who paid for this ordinance amendment application fee.

Ms. Botten replied that no application fee was paid as it was initiated by the City Council and Planning Commission rather than an applicant.

Chair Niemioja closed the public hearing.

Planning Commission Recommendation

Motion by Commissioner Weber, second by Commissioner Simon, to approve the ordinance amendment to Title 10 of the City Code (Zoning Regulations) to allow the size of accessory buildings on lots 3.3-5.0 acres in size, in the A, Agricultural District and E-1, Estate Residential District to be based on a ratio system depending upon lot size.

Motion carried (8/1 - Maggi). This item goes to City Council on May 10, 2021.

OTHER BUSINESS

City of Inver Grove Heights - Case No. 21-25ZA

Presentation of Request

Ally Sutherland, Environmental Specialist, explained that the planning commission is asked to have a discussion regarding a proposed ordinance amendment relating to the harboring and keeping of goats for prescribed grazing by permit. Staff would like feedback specifically on minimum lot size, neighbor notification, and electric fencing. She advised that on February 1 Council directed staff to research and develop a proposed draft ordinance. Staff has researched ordinance language and

provided the draft ordinance with recommended parameters. In recent years staff has received occasional residential inquiries regarding whether the use of goats for buckthorn management was allowed. Prescriptive grazing with goats is a popular tool used locally and nationally to manage buckthorn and other invasive noxious vegetation. Benefits of using goats to control invasive vegetation include being less time intensive and more cost effective than conventional methods, reduction in the use of pesticides, and goats can easily address areas with challenging topography. Annual treatment of invasive species is typically required, whether it be by the use of goats, herbicides, or mechanical treatment. In our current city code goats are defined as farm animals and are only allowed in Agricultural or E-1 zoning districts. Dakota County and several cities in the metro area have utilized goats for buckthorn management on public land. Other cities, such as Eagan, Burnsville, and Mahtomedi, have developed ordinances that allow for the temporary keeping of goats for prescriptive grazing by permit. Staff reviewed municipal ordinances within the metro region, contacted goat rental companies, and spoke with the DNR, League of Minnesota Cities and other land management advisory organizations for feedback. Staff believes it would be valuable to homeowners to have an ordinance that allows for the temporary use of goats. Regarding minimum lot size, staff felt it was important that lots be at least half an acre in size. Lots a half-acre or larger would be more likely to have a denser buckthorn area and smaller lots could most likely sufficiently remove invasive vegetation with conventional methods instead of utilizing goats. Staff recommends that permits be required and approved administratively for this temporary use. The draft ordinance includes language allowing the use of temporary electric fencing with the condition that double-fencing or a natural barrier surround the electric fence. The goat rental companies indicated that electric fencing is a common and critical element of their procedure. It keeps the goats focused on the target area and ultimately makes the process faster. All other metro cities that staff researched allow for electric fencing as a temporary use as part of their ordinance except for one; based on feedback from the goat rental companies that one city has been quite a challenge and they mostly do not service that area because of it. Electric fencing is currently not allowed in the zoning code for permanent use. The proposed amendment is to City Code, Chapter 4, not the zoning code, which is why this is not a public hearing. This is still under review by the City Attorney.

Planning Commission Discussion

Commissioner Maggi noted that the \$1-\$2M insurance requirement was an extremely high level of insurance coverage for a homeowner.

Ms. Sutherland clarified that the goat rental companies would carry the liability insurance, not the homeowners.

Commissioner Maggi asked if the goat company would be liable if the goats destroyed neighboring property.

Ms. Sutherland replied in the affirmative. She stated that it would be similar to hiring a lawn service. The goat rental companies own a herd of goats, bring them to your lot, set up fencing and other materials, let the goats graze, and when your invasive vegetation has been consumed they remove them. If anything happens while they are there it is the goat owner's responsibility to pay for those.

Commissioner Maggi asked if the fence could go right up to the property line.

Ms. Sutherland stated in the fence portion of the ordinance it states that the outmost fence must not go beyond your property line.

Commissioner Maggi asked who would be contacted if the goats got out of their enclosure.

Ms. Sutherland replied that all emergency contact information must come from the goat company

itself and homeowners do not need to be involved. They have staff on duty 24 hours a day to respond to emergencies, although apparently goats have poor vision and generally sleep at night.

Commissioner Wippermann noted that 3E states that no more than one goat per every one-tenth acre is allowed but 6E states no more than two goats per tenth of an acre is allowed.

Ms. Sutherland replied that was a typo; both sections should read two goats per tenth of an acre.

Commissioner Weber advised that he has written insurance for goat grazing and this was typical language required by all cities. One difference was that other cities he worked with required the fence to be one foot off the property line and the electric fencing had to be three feet inside of that. He preferred there be a four-foot gap between the electric fence and the perimeter fence rather than three-feet for safety reasons.

Chair Niemioja stated that goats are an attractive nuisance, and she supported the double-fencing and the recommended four-foot gap.

Commissioner Maggi asked if the homeowner or the goat rental company would apply for the permit.

Ms. Sutherland replied that either could apply. Some cities have the contractor apply once for all work being done in the City but staff prefers to do this per lot so they have better oversight.

Chair Niemioja recommended that the language in 6B be amended to better clarify that the goat company was responsible for any damage done by goats.

Ms. Sutherland agreed and stated she would clarify that the goat owner is the party who would be liable.

Commissioner Maggi asked who someone would call if a neighbor's goats got out and were destroying their yard.

Ms. Sutherland replied that the signage portion of the ordinance requires that emergency contact information be posted on the fencing and visible at all times. This would include a 24-hour emergency contact number.

Commissioner Robertson asked who installs and is responsible for the temporary fencing.

Ms. Sutherland replied that her understanding was that the goat rental companies were responsible for everything, including fence installation, with the exception of originally consulting and contracting with the company.

Commissioner Weber recommended that they delete the last sentence in 6B to clarify that the goat rental companies are the liable party.

Ms. Sutherland asked for planning commission comment regarding the minimum lot size. Currently staff is recommending a half-acre minimum. Staff would also like recommendations regarding the neighborhood notification process. Currently the draft ordinance has it as an administrative approval process since it is a temporary use rather than permanent.

Commissioner Clancy asked how staff arrived at the half acre minimum lot size as he was finding conflicting ideas in other cities. He stated he would appreciate being notified a week ahead of time if his neighbor was planning on renting goats, especially if he had small children or dogs. Notification could be via a letter or a sign. Regarding electric fencing, he would like there to be

proper notification such as a certain amount of distance between warning signs on the fence, a notice to passersby that there is an electric fence, etc. so there was enough notification that a person would be aware of its existence.

Commissioner Maggi asked if electric fences were currently allowed on half-acre lots.

Ms. Sutherland replied that permanent electric fencing is currently not allowed. She was unsure whether the zoning code addressed temporary fencing.

Commissioner Maggi stated she was not supportive of electric fencing on half acre lots, even if it was temporary. She questioned how they ran the electricity to the fence.

Ms. Sutherland stated her understanding was that it was a very low voltage, solely to keep the goats in the enclosure. Other communities have required the double fencing because the goat companies use electric fencing when servicing yards or areas.

Ms. Botten verified that currently electric fencing is not allowed anywhere in the city. Staff was initially opposed to the electric fencing portion of the ordinance, but research indicated that goat companies are not interested in doing work in the city if they cannot have an electric fence to contain the goats. Requiring a four-foot gap between the double-fencing should make the electric fence not accessible to anyone except the people owning the goats. If someone is touching the fence it is because they have gone onto private property and over the outmost barrier of the fence to try to get at the goats. The fence will be signed with information warning people of the electric fence.

Commissioner Maggi noted that there is an electric fence on 80th Street near the Grove.

Ms. Botten stated the way the code is written fences within areas served by municipal sanitary sewer shall not be constructed of barbed wire, chain link with barbs up or any other material that proves to be dangerous or hazardous. Therefore, the fence near the Grove would be in violation of our ordinance. Perhaps it has just been there for so long or the City never received complaints.

Commissioner Weber stated he would recommend that any electric fence run off the residential power source as he would not want to listen to a generator running in his neighbor's yard.

Chair Niemioja asked if he would be agreeable to allowing generators on large lots.

Commissioner Weber stated that based on his experience with his previous client most cities they worked in did not allow generators.

Chair Niemioja summarized the discussion, stating that commissioners seem to agree there should be a neighbor notification process and staff has addressed the electric fence issues. She asked for comments regarding the half acre minimum.

Commissioner Simon asked what the radius was for neighbor notification.

Ms. Sutherland advised that only two of the cities researched had a neighbor notification process. They both used a 150-foot radius and Maplewood required 60% of the property owners' consent.

Chair Niemioja suggested they use the same notification process as they do for chickens.

Mr. Hunting replied that notification was required for a chicken license, but they no longer require a renewal process.

Ms. Botten advised that only abutting neighbors were notified for chickens.

Commissioner Robertson recommended that abutting neighbors be notified at a minimum, largely because of the electric fence.

Chair Niemioja noted that someone getting their buckthorn under control would benefit the neighbors as well. She summarized commission feedback, including the power for the electric fence must run off the residential power source and not a generator, they prefer the double fencing and suggest a four-foot gap, neighbor notification for at least abutting property owners is their minimum recommendation, and Commissioner Maggi stated some issues with the half acre minimum.

Ms. Sutherland asked Mr. Hunting to clarify why they chose half-acre lots.

Mr. Hunting replied that it was somewhat arbitrary, but it seemed reasonable that lots less than a half-acre were unlikely to have enough of a buckthorn problem to warrant hiring goats to manage it.

Commissioner Weber was not opposed to the half-acre minimum but stated there were likely very few half acre lots in the city that were densely wooded with major buckthorn issues.

Ms. Sutherland advised that the other cities she spoke with typically had less than five permits per year. Another reason they selected a half-acre lot minimum was because that is what several other local cities specified.

Mr. Hunting advised that the deadline to apply for reappointment was May 3, 2021.

The meeting was unanimously adjourned at 9:18 p.m.

Respectfully submitted,

Kim Fox
Recording Secretary