

CITY OF APPLE VALLEY
PLANNING COMMISSION MINUTES
APRIL 6, 2011

1. CALL TO ORDER

The City of Apple Valley Planning Commission meeting was called to order by Acting Chair Melander at 7:00 p.m.

Members Present: Tom Melander, David Schindler, Ken Alwin, Keith Diekmann and Paul Scanlan

Members Absent: Tim Burke

Staff Present: Community Development Director Bruce Nordquist, City Planner Tom Lovelace, City Attorney Sharon Hills and Assistant City Engineer David Bennett

2. APPROVAL OF AGENDA

Acting Chair Melander asked if there were any changes to the agenda. Hearing none he called for a motion.

MOTION: Commissioner Diekmann moved, seconded by Commissioner Alwin, to approve the agenda. The motion carried 5-0.

3. APPROVAL OF MINUTES OF MARCH 16, 2011

Acting Chair Melander asked if there were any changes to the minutes. Hearing none he called for a motion.

MOTION: Commissioner Schindler moved, seconded by Commissioner Diekmann, to recommend approval of the minutes of the March 16, 2011, meeting. The motion carried 4-0. Commissioner Alwin abstained.

4. ANNUAL BUSINESS MEETING

The Commission nominated and elected officer positions amongst themselves. The officers, given only one nomination for each office, were accepted by unanimous consent under Robert's Rules of Order:

MOTION: Commissioner Scanlan moved, seconded by Commissioner Schindler to nominate Thomas Melander to serve as the Chair of the Planning Commission for one year. The motion carried 5-0.

MOTION: Commissioner Diekmann moved, seconded by Commissioner Alwin to nominate David Schindler to continue to serve as Secretary of the Planning Commission for another year. The motion carried 5-0.

Community Development Director Bruce Nordquist stated that the City Council passed an ordinance in 2010 allowing for only a Chair and a Secretary. He stated that a Vice-Chair position could be presented to City Council for proposal and approval if the Planning Commission so desires.

Chair Melander stated that he feels that the Vice-Chair plays an important role in the Planning Commission and he would like to see it go to City Council for approval. The Commission agreed and Chair Melander called for a motion.

MOTION: Commissioner Schindler moved, seconded by Commissioner Diekmann to direct staff to bring to City Council a request for the Planning Commission to elect a Vice-Chair. The motion carried 5-0.

Hearing no further discussion from the Planning Commission, Chair Melander closed the annual business meeting.

5. CONSENT ITEMS

--NONE--

6. PUBLIC HEARINGS

A. Home Depot Interim Use Permit – Consideration of an interim use permit to allow for the expansion of an existing outdoor garden center display area. (PC11-09-I)

City Planner Tom Lovelace stated that the applicant is requesting approval of an interim use permit to allow for a temporary outdoor garden sales area in the southeast corner of the parking lot and extension of the existing temporary sales area in front of the store by 53 feet from April 15th through June 15th. The site is located at 15101 Flagstaff Avenue and is the current location of an 114,841 sq. ft. building materials store and 24,990 sq. ft. garden center.

The petitioner currently has a conditional use permit to allow for a temporary outdoor display and sales area from April 15th to August 1st of each year in a 12 ft. x 26 ft. area to the west of the garden center entrance and a 12 ft. x 43 ft. area to the east of the entrance.

An interim use permit (I.U.P.) is defined as a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer allow it. The City may issue an I.U.P. if:

- The use is deemed to be temporary in light of the comprehensive guide plan designation for the property site on which the use is proposed to be located and the use conforms to the zoning regulations herein;
- The date or event that will terminate the use can be identified with certainty;
- Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future;
- The user agrees to any conditions that the Council deems appropriate for permission of the use; and
- The use meets the standards set forth in the zoning regulations herein governing conditional use permits.

Any approval of an I.U.P. for this proposed request should reference an approved site plan and identify the timeframe for the use, with a date certain for its termination. Staff would propose that the permit have a termination date of two years. This will give staff time to observe the use and determine if the existing temporary outdoor garden display area conditional use permit should be amended to include these areas.

The proposed expansion of the outdoor display area into the parking lot will require the temporary loss of 24 of the 467 parking spaces. The minimum number of parking spaces required for this facility is 219. Therefore, the loss of 24 spaces should not have an adverse impact on the needed parking for this use. Under no circumstance shall material be placed in the east/west vehicle lane located in front of the store.

It appears that the proposed sales area adjacent to the building will be blocking a service door and enter/exit door in the store. The size of this area shall be adjusted so that it provides the proper clearance to and from those doors. The standard is that the pathway clearance shall be equal to the width of the door. Also, only live plant material should be allowed to be displayed in this area.

The temporary outdoor area will display a selection of assorted annuals, perennials, shrubs, trees and bagged soils. A wood picket fence will be used to delineate the area in the parking lot.

The applicant did operate a temporary outdoor sales area in the general location as this proposed area last year as a special promotion. This special promotion was for 30 days and the City did not receive any complaints regarding the temporary operation.

Lovelace asked if the Planning Commission has any comments or questions.

Commissioner Diekmann asked if the parking lot is currently under-parked or over-parked.

Lovelace responded that Home Depot currently has 467 parking spaces and the temporary outdoor garden sales area would require a loss of 24 parking spots. He stated that the minimum parking spaces required for this operation is 219; therefore, staff does not believe it would have any adverse impact on their parking.

Commissioner Scanlan asked where the entry and exit points will be located.

Lovelace said it would be on the south side of the enclosure.

Commissioner Diekmann asked if there are any provisions for storage of outdoor garden center materials in the parking spaces on the east side of the garden center.

Lovelace said no.

Commissioner Diekmann stated that area was full of garden materials all last summer.

Lovelace said that has been a continuing problem and he will let the store manager address that concern.

Chair Melander asked if surrounding neighbor cities or areas within the city have had any problems reported with the sales of outdoor garden materials.

Lovelace responded that staff has not heard any concerns with theft issues within these types of areas in the city.

Hearing no further questions from the Planning Commission Chair Melander asked the petitioner to step forward.

Russ Brinkman, District Manager of Home Depot, stated that he and Mr. Wallrich would discuss different strategies about the storage of the outdoor garden materials. He mentioned that the store brought in 25-30 additional employees last year to staff the trial temporary outdoor garden center.

Commissioner Alwin stated that he is also concerned about the traffic flow and parking. He encouraged Mr. Brinkman to monitor the area where customers will pull up to load up their goods and the potential blocking of the entrance and exit of the fire lane.

Commissioner Diekmann asked about the location of the propane cylinder storage.

Mr. Brinkman replied that it is inside the garden center's fenced area. He stated that one of their site restrictions is to store propane cylinders inside the garden center.

Chair Melander stated that he would like to see the storage of the garden center materials inside rather than outside because of the potential congestion.

Hearing no further comments from the Planning Commission, Chair Melander asked for public comments.

Kim Barker, 15271 Florist Circle, stated that she is a neighbor of Home Depot's and also a board member of the Orchard Pointe Association. She stated that she is also concerned about the traffic flow on the east side of the building, although her biggest concern is the items that are downloaded on the south side of the building. She said there is a constant shift of things being downloaded, and she and other neighbors can see that from the south side of the building. She said that she has lived there for nine years and the pine trees do not cover their view of all the items.

Mrs. Barker stated that she brought this item to the city's attention with a code enforcement officer. She said that she felt belittled and made to feel like she was being a complainer. She has been told that Home Depot tries to do their best and they have a lot of inventory that they just don't have a place to put it. She said that is not an excuse for her. She said that perhaps a retaining wall similar to Menard's would be appropriate.

Commissioner Diekmann asked for clarification of what Mrs. Barker meant by "downloading".

Mrs. Barker stated that all sorts of things are stored in the back from pallets to carts to semi-trucks waiting to be unloaded.

Commissioner Diekmann asked her if they are taking materials off of a truck and temporarily placing them there.

Mrs. Barker said that is correct and that it is a constant process.

Mr. Brinkman said that the awareness is very high in regards to the operations outside of the building. He stated that he hasn't read the site restrictions in detail for this particular Home Depot, although traditionally there is a 24-hour turn around on all product that is delivered. He said there is a screening wall on the left side that blocks the view of lumber. Mr. Brinkman said at the receiving department they do \$250,000 a day of sales and that is the equivalent of 25 truckloads. He said the product is dropped and then at night teams go out and pull the product inside.

Mr. Brinkman said that site restrictions for this building based on the city's requirements is 8 a.m. to 8 p.m. dock time. He said that there are no trucks driving behind this building in the evening hours, which is unusual for a Home Depot operation. He stated that he will direct Apple Valley Store Manager Nick Wallrich to direct a team to go out and do trash detail behind the store at least once a month. He said they will make sure this area stays clean in order to be a good neighbor.

Chair Melander stated that he appreciates the cooperation of Home Depot to be a good neighbor. Chair Melander asked Lovelace about the site restrictions at this Home Depot location.

Lovelace said that from his recollection, there would be no product downloaded or dropped behind the screening wall. He said that Home Depot informed the city that the only place they would accept material is at the southwest rear corner because this is their lumber yard receiving area and that product would be put directly into the store at that time. So the only time that a truck would be in the back is to unload and it would be behind the wall so there was not a need for any additional wall extended beyond that area. Lovelace stated that if there is additional product being stored in the back of the building, staff will have the discussion with their representatives and make them aware of what they can and cannot do.

Commissioner Scanlan stated that in relation to how the business operations have changed since the conception of when the store was originally built and how materials are being handled now, asked the applicant if they would reevaluate the landscape design at the rear of the store and provide more screening.

Mr. Brinkman replied that to their knowledge there is not any unloading of vehicles where there is not a wall. He said that if there is, it's their concern as much as anyone else's. He stated that he will supply to Mrs. Barker the store manager's and his phone number to contact if vehicles are unloading in the area where their vendors should not to be. He said that they want to abide by their restrictions.

Chair Melander stated that he thinks this item should be continued to the next meeting to review recommendations by staff. He asked for any additional comments from the public.

Mrs. Barker stated that she appreciates that the district manager is providing phone numbers to call but she said she would prefer to not have to do that. She said she doesn't want to be the complainer; she just wants them to follow the rules respectfully.

Commissioner Alwin stated that he is torn; he understands the pain of the homeowner's who live behind the store, but it is a commercially zoned area, and if the city wants Home Depot, there will be trucks. He said that as long as Home Depot is complying with their restrictions and city ordinances that apply to their loading and unloading, the Planning Commission cannot tie that to the proposed I.U.P. application.

Lovelace suggested staff speak with city code enforcement and have a periodic sweep of the area and also a conversation with the store manager so that he understands what can and cannot happen in the back of the store.

Commissioner Diekmann asked if they could add a condition to the I.U.P. stating that the I.U.P. can be revoked if so many citations are found by the 2013 expiration date.

Lovelace said he would need to speak with the attorney to see if the two items can be linked to each other. He said if there was an issue of outside storage of garden product the city could revisit the conditional use permit of the garden center and have a conversation regarding the revocation of the C.U.P.

City Attorney Sharon Hills stated that the interim use permit could be conditioned on complying with city code because the city code does regulate outdoor storage. She stated that it could also be a violation of their existing C.U.P. depending on what is actually be stored outside.

Lovelace stated that a common condition in a C.U.P. is that the permit is contingent upon complying with all applicable city codes.

Commissioner Diekmann stated that would address his concern.

Hearing no further comments Chair Melander closed the public hearing. He asked if staff had any additional comments.

Community Development Director Bruce Nordquist stated that the city does provide a temporary use permit for special events. He stated that although a temporary use permit is only for 30 days, it may allow Home Depot to move forward with their outdoor garden center, if the Planning Commission still has concerns.

Commissioner Diekmann stated that he is comfortable with Home Depot's request for an interim use permit as long as the statement of complying with all city codes is inserted into the conditions.

Chair Melander agreed with Commissioner Diekmann and called for a motion.

MOTION: Commissioner Alwin moved, seconded by Commissioner Diekmann, to recommend approval of the interim use permit to allow for the establishment of two temporary outdoor garden sales areas from April 15th to June 15th for Home Depot subject to the following conditions:

- The permit shall apply to property located at 15101 Flagstaff Avenue and legally described as Lot 6, Block 1, HILLCREST ACRES.
- The interim use shall be conducted in conformance with the approved site plan, dated March 9, 2011.
- Only live plant material shall be allowed in the temporary area located directly adjacent to the store.
- Adequate clearance to and from all service doors and enter/exit doors into the store, in accordance to the city's building and fire codes, shall be maintained.
- Live plant material and bagged soils shall be allowed in the temporary area located in the parking lot.
- The area in the parking lot shall be delineated by a wood picket fence.
- Material shall not be placed in the east/west vehicle lane located in front of the store.
- The Interim Use Permit shall terminate on June 15, 2013.
- The Interim Use Permit is conditioned upon compliance of all applicable city codes and ordinances.

The motion carried 5-0.

7. LAND USE/ACTION ITEMS

--NONE--

8. OTHER BUSINESS

A. Review of the Upcoming Schedule and other Updates.

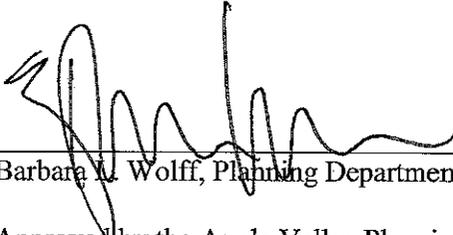
Community Development Director Bruce Nordquist stated there are no updates.

9. ADJOURNMENT

Hearing no further comments from the Planning Staff or Planning Commission, Chair Melander asked for a motion to adjourn.

MOTION: Commissioner Schindler moved, seconded by Commissioner Diekmann, to adjourn the meeting at 7:50 p.m. The motion carried 5-0.

Respectfully Submitted,



Barbara A. Wolff, Planning Department Assistant

Approved by the Apple Valley Planning Commission on 5-4-11.