

CITY OF APPLE VALLEY
PLANNING COMMISSION MINUTES
MAY 4, 2011

1. CALL TO ORDER

MOTION: Commissioner Alwin moved, seconded by Commissioner Diekmann, to approve Commissioner Burke as Acting Chair until the arrival of Chair Melander.

The City of Apple Valley Planning Commission meeting was called to order by Acting Chair Burke at 7:01 p.m.

Members Present: Ken Alwin, Tim Burke, Keith Diekmann, Paul Scanlan, and Brian Wasserman

Members Absent: David Schindler

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

2. APPROVAL OF AGENDA

Acting Chair Burke asked if there were any changes to the agenda.

Community Development Director Bruce Nordquist said there is a correction to agenda item 6B. He stated that the zoning district should state PD-716.

Hearing no further corrections to the agenda, Acting Chair Burke 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 APRIL 6, 2011

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

MOTION: Commissioner Diekmann moved, seconded by Commissioner Alwin, to recommend approval of the minutes of the April 6, 2011, meeting. The motion carried 4-0. Acting Chair Burke abstained.

Chair Melander arrived at 7:03 p.m.

4. SELECTION OF VICE-CHAIR

Community Development Director Bruce Nordquist stated that at the meeting of April 28, 2011, the City Council voted unanimously to adopt a resolution establishing a vice-chair position for the Planning Commission.

The Commission nominated and elected an officer vice-chair position. The officer, given only one nomination for vice-chair, was accepted by unanimous consent under Robert's Rules of Order:

MOTION: Commissioner Alwin moved, seconded by Commissioner Melander, to nominate Commissioner Burke to serve as the Vice-Chair of the Planning Commission until the 2012 annual meeting. The motion carried 6-0.

5. CONSENT ITEMS

--NONE--

6. PUBLIC HEARINGS

A. **Elite One Sports Performance – Consideration of proposed conditional use permit to allow for a 3,800 sq. ft. athletic training facility in zoning district “BP” (Business Park). (PC11-16-C)**

Associate City Planner Kathy Bodmer stated that the petitioner is requesting a conditional use permit (CUP) to operate a 3,800 sq. ft. athletic training facility in a “BP” (Business Park) zoning district located at 5708 Upper 147th Street West. No changes to the exterior of the building or site are requested in connection with this CUP request.

The 147th Street Business Center building lies within the “BP” (Business Park) zoning district. A conditional use permit is required to operate swim and fitness clubs, exercise and similar commercial recreation facilities contained within a building in the BP zone. Conditional uses are generally defined as uses permitted in a particular zoning district subject to compliance with conditions and standards as set forth by the zoning ordinance and authorized by the governing agency. In reviewing applications for a CUP, the Planning Commission and City Council may attach reasonable conditions to mitigate anticipated adverse impacts associated with these uses, to protect the value of other property within the district, and to achieve the goals and objectives of the comprehensive plan.

The 3,800 sq. ft. athletic training facility will be operated in Suite 104, which is a 3,000 sq. ft. suite, along with the office portion of Suite 105. The office area will be set up as a reception, office and waiting area. Fifty percent of the 3,000 sq. ft. training area will be dedicated to gym equipment including treadmills and weights, while the other 50% will be open and available for sprints, footwork/agility training and plyometrics. The entire multiple tenant office/warehouse building is 30,000 sq. ft.

The petitioner states that a maximum of four trainers will use the facility per day and will work with a maximum of three students each per training session. Two bathrooms will be available, but no locker rooms or showers will be provided. The age of the athletes is primarily 12 to 15 year olds, the majority of whom are dropped off and picked up by their parents. The facility will operate from 3:00 to 9:00 p.m., Monday through Friday during the school year and 9:00 a.m. to 7:00 p.m. Monday through Friday when school is not in session. Training may take place during limited hours on Saturdays in the future, but Saturday sessions are not planned at this time.

The number of parking spaces required for recreation and sports training facilities is one space for every three occupants, based on the maximum occupant load of the facility. Because the petitioner plans to have a larger, open, exercise area, the occupant load for the space is 60 people, which would require 20 parking spaces; the office area is 750 sq. ft. which will require a total of 4 parking spaces. According to the zoning code parking requirement, a minimum of 24 parking spaces is required for this use. The parking that would have been calculated for the suite based upon the office/warehouse/manufacturing layout would have been 10 spaces.

Although the parking requirement is 24 spaces, the city may make upward or downward revisions to the parking requirement based upon its experience with the use. In this case, given the fact that the available number of parking spaces is limited for each tenant in the building, and the manner in which the petitioner has stated that the athletic training facility will function, will generate less parking demand than the parking calculation shows. To address the parking issue, the city may wish to place a total maximum number of parking spaces as one of the conditions of the CUP. If the petitioner either increases the number of trainers, ratio of students to trainer, or increases the size of the facility, resulting in an increase in parking demand, he will need to amend his CUP. The number of parking spaces that would be required for the athletic training facility would have to be re-evaluated at that time.

The rear of the building (south side) is the receiving and loading area for the building. Some additional parking could be accommodated in the rear of the building which will not interfere with deliveries and truck circulation.

Bodmer asked for comments or questions from the Planning Commission.

Commissioner Alwin asked for further explanation of the 12-space parking cap versus a cross-parking agreement.

Bodmer said that the parcel to the south of the building is vacant and an analysis of a cross-parking agreement was not done. She said that the access to the proposal building is off of Upper 147th Street West and preference would be for parking to be in the front.

Commissioner Diekmann asked if they can show proof of parking in the rear of the building.

Bodmer said that at this time there are four parking spaces shown in the rear of the building, which is the delivery area. She said that if the Commission asked the petitioner to make analysis of delivery vehicles, more proof of parking could probably be added.

Chair Melander said that since most businesses empty out at 5 p.m., the fitness center would have access to all 80 spaces. He said he is comfortable with the parking spaces based on their hours of operation.

Bodmer said that staff has the same comfort level.

Commissioner Scanlan asked if there have been any complaints of parking restrictions based on the two existing athletic facilities.

Bodmer said that staff has not had any complaints on parking.

Chair Melander asked if the petitioner is okay with the limitation of 12 parking spaces.

Bodmer said that the limitation was part of the staff report and she has not heard any comments from the petitioner but perhaps he can address that when he comes forward.

Chair Melander asked for the petitioner to come forward.

Tim Parkos stepped forward to address the Commission. He stated that he is comfortable with the limitation of the 12 parking spaces.

Chair Melander asked if there were any public comments. Hearing none, he closed the public hearing and stated that although it is the policy of the Planning Commission to not take action on an item on the night of its public hearing, the petitioner is requesting a motion this evening. Chair Melander said that no additional concerns have been raised and called for a motion.

MOTION: Commissioner Burke moved, seconded by Commissioner Diekmann, to recommend approval of a conditional use permit to operate a 3,800 sq. ft. athletic training facility in a "BP" (Business Park) zoning district at 5708 Upper 147th Street West, Suites 104 and 105 with the following conditions:

1. The CUP shall be conducted in accordance with the floor plan dated April 5, 2011.
2. The number of trainers, students and spectators shall be limited so that the total number of parking spaces required for the use does not exceed 12 spaces.

The motion carried 6-0.

B. Seasons Sidewalk Connection - Consideration of amendment to an existing Planned Development Agreement to allow a sidewalk connection from the Seasons at Apple Valley apartment site located in zoning district "PD-716" (Planned Development) to a trail in Kelley Park. (PC11-15-Z)

Associate City Planner Margaret Dykes stated that the petitioner is requesting an amendment to the Planned Development Agreement to allow for a sidewalk connection from the Seasons at Apple Valley site to the existing trail in Kelley Park.

The area is zoned "PD-716". The sidewalk connection is a change from the approved site plan. Because the area is zoned as a Planned Development, any change to the site plan requires an amendment to the Planned Development Agreement, which is a zoning amendment. A License Agreement is also required and has been drafted by the City Attorney.

In 2007, the city approved a site plan for the Regent of Apple Valley, which showed a sidewalk connection from a patio located on the subject property to a trail in Kelley Park. The Planned Development Agreement in place at the time required a License Agreement for the sidewalk connection. The Planned Development Agreement and License Agreement were approved by the City Council on December 13, 2007.

The property was not developed until 2009, when Ecumen purchased the lot and the current building was built. The new property owner submitted a new site plan that did not show the connection from the building to the trail in Kelley Park. A new Planned Development Agreement was drawn up to reflect the changes to the site and the ownership changes. The City Council approved the changes on December 22, 2009.

The property owner now would like to make the connection from the site similar to the one shown in the 2007 approved plans. The site plan shows the connection of a 5'-wide concrete sidewalk from a patio on the Seasons site to the existing bituminous trail in Kelley Park. The Parks Director has reviewed the plan and supports the sidewalk connection. The Assistant City Engineer has reviewed the plan and has no issue with the proposed sidewalk grading.

Dykes stated that City staff is in support of this project and the petitioner is present and would like to make a presentation to the Planning Commission.

Link Wilson, of Kaas Wilson Architects, presented slides depicting the Seasons at Apple Valley facility. He stated that the connection to the existing trail will be advantageous to the residents. He commented that some

landscaping will need to be removed to construct the trail, although they have added additional landscaping at the side of the trail and the front of the building to make up for this removal.

Chair Melander asked if there were any public comments.

A person from the audience asked if the public can use the trail or if it's only for the residents of the facility.

Dykes mentioned that a portion of the sidewalk is on private property, and would be available only to residents. However, the portion of the sidewalk on the Kelley Park property is public and open to the public.

Hearing no further comments Chair Melander closed the public hearing and stated that although it is the policy of the Planning Commission to not take action on an item the night of its public hearing, the petitioner is requesting a motion this evening. Chair Melander said that no additional concerns have been raised and so called for a motion.

MOTION: Commissioner Diekmann moved, seconded by Commissioner Burke, to recommend approval of the amendments to the Planned Development Agreement for the Seasons at Apple Valley to allow for a 5'-wide concrete sidewalk connecting the senior apartment site at 15359 Founders Lane (Lot 1, Block 2, The Legacy of Apple Valley) to the existing trail in Kelley Park, as shown on the plans received in City offices on April 6, 2011, subject to all applicable codes and standards, and the execution and recording of a license agreement for the sidewalk connection.

The motion carried 6-0.

C. Cobblestone Lake South Shore 5th Addition – Consideration of Comprehensive Plan Amendment, rezoning, and proposed subdivision of an eleven acre parcel into 53 single-family lots. (PC11-14-PZS)

City Planner Tom Lovelace stated that the petitioner South Shore Development, LLC is requesting an amendment to the 2030 Comprehensive Plan Land Use map, rezoning, and the subdivision by plat of approximately 11.4 acres of property located in the northeast corner of 160th Street West (CSAH 46) and Elmhurst Lane.

The applicant is requesting an amendment to the 2030 Comprehensive Plan Land Use Map that would redesignate the property from "MD" (Medium Density Residential/6-12 units per acre) to "LD" (Low Density Residential/3-6 units per acre).

The rezoning request would change the current zoning designation of "PD-703/zone 8" (Planned Development), which allows for sand and gravel mining to "PD-703/zone 2", which allows for single family dwellings as a permitted use.

The final request is for approval of subdivision by plat of the 11.4-acre Outlot K, COBBLESTONE LAKE COMMERCIAL 3RD ADDITION into 53 single family lots and one (1) outlot that is the current location of an 8-foot pathway. Access to the platted lots will be via public streets that will intersect Cobblestone Lake Parkway and Elmhurst Lane.

The residential lots will vary in size from 5,707 sq. ft. to 13,032 sq. ft., which meet or exceed the minimum requirements with the exception of two corner lots (Lots 6 and 21, Block 1). Lot 6 has an area of 7,180 sq. ft. and Lot 21 has an area of 6,683 sq. ft. Adjustments should be made to bring these into conformance.

The applicant shall dedicate a 30-foot wide scenic/conservation easement over the rear yard area of lots abutting 160th Street West to preclude removal of earth berms and landscaping installed adjacent to the roadway.

Dakota County will require an access restriction easement that restricts access to CSAH 46 be recorded on the plat, which the applicant has identified on the preliminary plat. Staff is also proposing that similar access restriction easements be established along Cobblestone Lake Parkway, Elm Creek Lane, and Elmhurst Lane.

The applicant is proposing to develop this site in two phases, which will result in the construction of public streets that will dead-end in the first phase. Temporary turnarounds at the end of the roads will need to be installed. These turnarounds shall be adequately designed to accommodate not only passenger vehicles but also maintenance and service vehicles such as snow plows and garbage trucks. An option to the temporary turnarounds would be to complete construction of the streets during the first phase.

Dwelling units on Lots 10-21, Block 1 will front on Cobblestone Lake Parkway and Elmhurst Lane, with their garages located behind the dwellings adjacent to Street A and the proposed dwelling units located on Lots 3-8, Block 2 will front on Street A. The applicant shall provide the City with building layouts and elevations for the before-mentioned lots in Blocks 1 and 2 to ensure compatibility prior to any recommendation. Also, for emergency response purposes it will be required that the dwelling units on these lots will need to be clearly addressed on both the front and back of the dwelling unit/garage.

A trails and regional infiltration project around Cobblestone Lake does accommodate approximately 1/3 of the site's infiltration requirement. The applicant will need to provide for infiltration of the remaining 2/3 of the site within the development or an agreement shall be required between the City and appropriate parties to allow for this infiltration somewhere within the overall Cobblestone Lake Development.

Staff is recommending that the median on Cobblestone Lake Parkway at Street B should remain closed due to the close proximity of the roundabout at Elm Creek Lane and the inability for a vehicle to make a safe left turn maneuver due to inadequate sight distance. Also, parking on Street A and B shall be limited to one side of the street.

The Natural Resources Coordinator has reviewed the proposed landscape plan and the Assistant City Engineer has reviewed the preliminary plat, grading, and utilities plans and recommended several revisions, which the applicant should make prior to city approval.

Lovelace asked for comments or questions from the Planning Commission.

Commissioner Diekmann asked what the average square footage is of the lots in Cobblestone Lake South Shore 3rd Addition.

Lovelace said that they are comparable to the proposed development as they are also in Zone 2.

Commissioner Diekmann asked if the houses on the west side of Cobblestone Lake South Shore 3rd Addition front Elm Creek Lane or the inner part of the neighborhood.

Lovelace said that the homes front Elm Creek Lane.

Commissioner Scanlan asked for Lovelace to comment on street widths and parking.

Lovelace said that the street widths are 52' wide, with parking on one side of the street, which is standard in the development.

Commissioner Scanlan stated that it will create an issue because of the number of lots and density in the proposal in comparison to the past winter with snow storage and parking.

Lovelace replied it was an issue this past winter with snow storage management, although the developer is not deviating from what currently exists in the Cobblestone Lake development.

Commissioner Alwin asked if there are sidewalks planned.

Lovelace said that there are sidewalks on both sides of all of the streets with connections to existing sidewalks.

Commissioner Alwin asked if guests would park on Cobblestone Lake Parkway if they came to visit one of the residences that fronts Cobblestone Lake Parkway.

Lovelace said there is currently recessed parking along both sides of Cobblestone Lake Parkway and there will also be parking along Elmhurst Lane and Elm Creek Lane.

Commissioner Scanlan stated that there doesn't appear to be sidewalk access out of the neighborhood on the south side and west side of the development.

Lovelace said pedestrian traffic will connect to the existing sidewalk on Elmhurst Lane on the west side and pedestrians will have to walk up to Cobblestone Lake Parkway to access the remainder of the existing sidewalks.

Commissioner Scanlan stated that the existing single-family neighborhoods have connections throughout the neighborhood. He stated that he sees this as a concern in the proposal as the whole theme of Cobblestone Lake is the openness of the neighborhood and interaction with neighbors. He said this proposal appears to be a neighborhood within itself and not embracing the concept of Cobblestone Lake.

Lovelace said that the street network is different than what was done in the first addition because this proposal is unique in that it is sandwiched between the main roads of Cobblestone Lake Parkway, 160th Street, and the two roads that provide entrances into the development. Lovelace said that the petitioner can address that when he comes forward.

Chair Melander asked for the petitioner to step forward.

Jacob Fick, with South Shore Development, stepped forward to address the Commission. He gave a brief history and overview of the whole development of Cobblestone Lake and how they arrived at the current design of Cobblestone Lake South Shore 5th Addition.

Chair Melander said that he thinks it is important to address the orientation of the homes.

Commissioner Scanlan asked if it will be possible to add some additional sidewalk access points in the southeast area of the development.

Mr. Fick replied that they can look at another access, although he doesn't think it's a very wise use for a trail corridor to handle approximately 20 homes.

Commissioner Wasserman asked what plans the developer has to make the site look and feel like a complete neighborhood since the development will be completed in two phases.

Mr. Fick said that the development is market driven. He said to install the entire infrastructure and sit on the other piece for a year or longer will necessitate in an outpouring of cash for installation, interest, and letters of credit at the City, resulting in an economically unwise decision. He said they intend to put in the temporary turn-arounds and the entire site will be graded, reseeded and mulched at the same time.

Commissioner Burke stated that he would be in favor of not cutting the road through next to the roundabout.

Mr. Fick said he understands the concern, although they are trying to market it for ease of access for both the builder and residents.

Commissioner Diekmann said that in terms of this development being in phases, residents in the first phase will need access in and out of the development and the connection to Cobblestone Lake Parkway. He said they will need that full intersection.

Chair Melander opened the discussion for public comment.

Hearing no further comments, Chair Melander closed the public hearing. He stated that it is the policy of the Planning Commission not to act on a public hearing item the night of the public hearing.

Chair Melander thanked Mr. Fick for coming in.

7. LAND USE/ACTION ITEMS

--NONE--

8. OTHER BUSINESS

A. Discussion of Recent Court Case

Community Development Director Bruce Nordquist stated that the Commission received in their packets a memo from legal counsel in regards to a recent court case currently being decided by the Minnesota Court of Appeals. He said the outcome of the case may have a substantial impact on how council members conduct themselves in communications and interactions with applicants and other stake holders within the City.

The Planning Commission makes recommendations to the City Council for consideration. While the example presented involves a council member, it provides points to consider should a Planning Commissioner be contacted by a property owner or applicant.

Nordquist stated that the memo is provided as informational and to provide the opportunity for members of the Planning Commission to discuss and ask questions of legal counsel.

City Attorney Sharon Hills stated that the memorandum included in the Commission's packets clearly lays out the facts of the case and the ramifications of the actions by the council members. She said that the court

of appeals agreed with the district court to the extent that the council member's conduct outside the council is not proper and does not provide an applicant with fairness for their proposal.

Hills said that the Planning Commission makes recommendations, not decisions, so it probably would not affect them as much, but she cautions them all the same. She said continue to visit the sites and review the information but don't have conversations with people about how they feel about a proposal or how they're going to act on it.

Associate City Planner Kathy Bodmer asked if this will impact the Planning Commission's discussion at sketch plan reviews.

Ms. Hills said no because the Planning Commission is giving feedback as to what they see as issues or concerns. She said the commissioners are not giving feedback as to whether they would support it or not support it.

B. Review of the Upcoming Schedule and other Updates.

Community Development Director Bruce Nordquist stated that the American Institute of Architects Sustainable Design Assessment Team (AIA-SDAT) steering committee will meet on Tuesday, May 10th at 6 p.m. in the Regent Conference Room at City Hall.

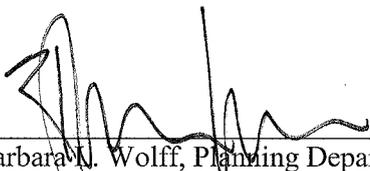
Commissioner Alwin welcomed new Commissioner Brian Wasserman.

9. ADJOURNMENT

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

MOTION: Commissioner Burke moved, seconded by Commissioner Alwin, to adjourn the meeting at 8:36 p.m. The motion carried 6-0.

Respectfully Submitted,



Barbara N. Wolff, Planning Department Assistant

Approved by the Apple Valley Planning Commission on 5-18-11.