

CITY OF APPLE VALLEY
PLANNING COMMISSION MINUTES
AUGUST 4, 2010

1. CALL TO ORDER

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

Members Present: Jeannine Churchill, David Schindler, Ken Alwin, Tim Burke, Keith Diekmann and Paul Scanlan

Members Absent: Tom Melander

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

Chair Churchill asked if there were any changes to the agenda. Hearing none she called for a motion.

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

3. APPROVAL OF MINUTES OF JULY 14, 2010

Chair Churchill asked if there were any changes to the minutes. Hearing none she called for a motion.

MOTION: Commissioner Diekmann moved, seconded by Commissioner Burke, to recommend approval of the minutes of the July 14, 2010, meeting. The motion carried 5-0.

Commissioner Schindler arrived at 7:02 p.m.

4. CONSENT ITEMS

A. 2030 Comprehensive Plan/Zoning Code Consistencies (PC10-35)

- a) Set public hearing to consider amendments to the 2030 Comprehensive Plan to add a temporary sand and gravel overlay.**
- b) Set public hearing to consider rezoning of ten sites to make them consistent with the Comprehensive Plan land use designations.**

On January 13, 2010, the Apple Valley City Council adopted the 2030 Comprehensive Plan Update. The plan guides the City's future growth and development by presenting the long-term vision and goals for the City. The Metropolitan Land Planning Act requires cities in the metropolitan area to review their official controls within nine months of adoption of their plan update to ensure that the controls are consistent with their newly adopted comprehensive plan. Official controls are the ordinances and rules that implement the objectives of the comprehensive plan and include the zoning and subdivision chapters of the City Code.

An analysis of the comprehensive plan and zoning ordinance has been completed and a few amendments are necessary to make the zoning ordinance consistent with the recently updated 2030 Comprehensive Plan. When the comp plan was recently updated, the temporary sand and gravel overlay designation was inadvertently left out of the plan. The sand and gravel overlay is a temporary land use designation that allows mining activity on

properly zoned property in conformance with an approved conditional use permit. The overlay designation states that sand and gravel mining is considered an interim use and that properties currently being mined will eventually be redeveloped in conformance with the underlying land use designation. The temporary sand and gravel overlay designation is needed to allow sand and gravel mining at this time while guiding the long-term development of the property with the underlying land use designation.

On the zoning map, the zoning designation on 11 sites was determined to be inconsistent with the 2030 Comprehensive Plan. Five of the sites are City-owned properties. Other publicly-owned properties include the Palomino Park & Ride and Falcon Ridge Middle School. Privately-owned properties include Christus Victor Lutheran Church and McNamara Contracting.

Chair Churchill asked the Planning Commission if they had any questions or concerns for staff. Hearing none, she called for a motion.

MOTION: Commissioner Burke moved, seconded by Commissioner Diekmann, to approve the draft resolutions setting public hearings for the next available Planning Commission meeting to consider amendments to the Comprehensive Plan and Zoning Ordinance with the following:

1. Adopt the resolution setting a public hearing to consider an amendment to the 2030 Comprehensive Plan to establish a temporary sand and gravel overlay designation.
2. Adopt the resolution setting public hearings to consider rezoning of properties for 2030 Comprehensive Plan/Zoning consistency.

The motion carried 6-0.

5. PUBLIC HEARINGS

A. **Proposed Amendments to Section 155.385 – Consideration of amendments related to wireless communications tower standards and requirements for distances from structures and setbacks from property lines for towers with engineered breakpoints.**

City Planner Tom Lovelace stated that the Planning Commission received a draft proposal of amendments to Section 155.385 of the zoning code, which deals with the site design and maintenance of the wireless communication towers in the city. The proposed amendments relate specifically to the setback requirements for communication towers constructed using breakpoint technology.

Currently, the code requires towers to be set back a minimum of 1.5 times the fall zone (commonly described as the height of the tower) from the property line; 2 times the fall zone from structures on neighboring properties located in the commercial, industrial, and institutional zoning districts; and 300 feet from neighboring structures in the single and multiple family residential zoning districts. The proposed amendments will define “fall zone” and establish design requirements for towers constructed with breakpoints.

Breakpoint technology is the engineering design of a monopole wherein a specified point on the monopole is designed to have stresses concentrated so that the point is at least 5% more susceptible to failure than any other point along the monopole. Therefore, in the event of a structural failure of the monopole, the failure will occur at the breakpoint rather than at the base plate, anchor bolts, or any other point on the monopole. If failure of the pole were to occur, the section of tower above the breakpoint would collapse upon itself within a smaller fall radius, thus reducing the fall zone.

Construction of all telecommunications towers, including towers utilizing breakpoint technology shall be designed and constructed in accordance with the Telecommunications Industry Association Standard ANSI/TIA 222-G. Information regarding these standards has been provided by Sabre Towers and Poles, a leading manufacturer of guyed wires, self-supporting towers, monopoles, and concealment structures.

These amendments will continue to provide the protection to adjacent property and structures currently present in the code while allowing for greater flexibility in siting towers on subject properties and providing more co-locating opportunities.

Finally, the Building Inspections Department no longer enforces the Uniform Building Code as indicated in Section 155.385(B)(3). They currently enforce the Minnesota Building Code, which has adopted the International Building Code. Therefore, staff is recommending that all references to any specific building code be struck and that section be amended to read "current building code as adopted by the City".

Lovelace asked for any comments or questions from the Planning Commission.

Hearing none, Chair Churchill asked if anyone from the public would like to speak.

Andrew Haldane, a professional engineer with Tower Engineering Professionals, Inc., approached the Planning Commission. He stated that he is licensed in 45 states including Minnesota. He demonstrated with a replica of a telecommunications tower the breakpoint, fall radius, and fall zones of monopoles. Mr. Haldane said that the city wants to limit the fall impact within the fall zone. He also commented that the TIA 222-F recommends the self supported towers be re-inspected every five years.

Chair Churchill asked if the piece of tower stays attached or frees itself if the tower fails.

Mr. Haldane replied that it will bend right over; it does not roll away. He said a lot of jurisdictions reduce setbacks for fall zones. Also, he commented that the way Apple Valley's city code is written, the possibility of a structure failing is very slim to none.

Chair Churchill noted from Mr. Haldane's comments that if a tower did fail, the remainder of the structures in the area would probably be destroyed as well.

Mr. Haldane said yes. He commented that the City's ordinance is well written, although he recommended some changes.

Commissioner Alwin stated that he has concerns about the breakpoint when the tower is co-located.

Mr. Haldane said that the City would want the code written so it addresses that concern with the stress ratios and the breakpoint design maintained stated within the code. He said there are ways to upgrade the poles and still maintain the breakpoint.

Commissioner Burke asked about the stress ratios in comparison to the breakpoint on the tower.

Mr. Haldane said it should exceed 5%.

Commissioner Scanlan asked if the City code should address predicting the future loading of the tower with co-applicants.

Mr. Haldane said that is tough to do. He said it is possible to require a 4-carrier pole as opposed to a 2-carrier pole. He said it would ensure a lot more flexibility on antenna configurations.

Commissioner Diekmann asked if the design of a monopole is similar in design to high voltage towers.

Mr. Haldane said the designs are significantly different and high voltage towers are not typically designed with breakpoints.

Commissioner Alwin asked if there can be multiple breaks when a tower does fail.

Mr. Haldane replied that he's seen three-legged towers break at two points because it collapses upon itself. He said that if the monopole had a second failure, it would still be above the original fall zone.

City Attorney Sharon Hills asked if a 100 ft. tower lost the top 30 ft. in high winds, could the remaining tower topple from the base.

Mr. Haldane said that the remaining 70 ft. would be stronger because it has lost 30 ft. of its weight.

Hearing no further comments, Chair Churchill thanked Mr. Haldane for the information. She asked for further comments from the public. Hearing no further comments, she closed the public hearing.

Community Development Director Bruce Nordquist asked Mr. Coyle if he would be comfortable delaying action on the Galaxie Park conditional use permit application.

Peter Coyle, 7900 Xerxes Avenue South in Bloomington, MN, on behalf of Clearwire, approached the Planning Commission. He said that they would cooperate with city staff on the two week extension for the Galaxie Park application.

Chair Churchill thanked Mr. Coyle. She explained to the audience that there are two sections of the 2030 Comprehensive Plan that have immediate bearing on issues of towers that go into city parks and also a community development chapter that speaks specifically of communications and states that it is a goal of the City to improve and stay in the forefront of the technology that is available. There also is a lot of emphasis in the Comp Plan on city parks as well as emphasis on healthy parks and healthy people in the City's quarterly newsletter. She stated that the Planning Commission is trying to balance those two objectives. She thanked everyone for their time.

6. LAND USE/ACTION ITEMS

A. Apple Valley East Family 2nd Addition – Consideration of proposed amendments to the 2030 Comprehensive Plan Land Use Map, rezoning, and subdivision to allow for a 54-unit small lot single family development on approximately 7.5 acres and 3-4 commercial lot development on approximately 5 acres.

City Planner Tom Lovelace stated that the petitioner is requesting amendments to the 2030 Comprehensive Plan Land Use map, rezoning, and the subdivision by plat of approximately 14.5 acres of property located in the northeast corner of 155th Street West and Pilot Knob Road.

The applicant has requested the redesignation to the 2030 Comprehensive Plan Land Use Map of the north 9 acres of Outlot A, APPLE VALLEY EAST FAMILY ADDITION from "MD" (Medium Density Residential/6-12 units per acre) to "LD" (Low Density Residential/3-6 units per acre) and the south 5.5 acres from "MD" to "C" (Commercial).

The rezoning request would create “PD-849/zone 2” over the north 9 acres of the existing outlot and amend the existing planned development ordinance by adding uses, area requirements, and performance standards for zone 2. No zoning changes would be expected to the south 5.5 acres until a development plan is submitted.

The final request is for approval of subdivision by plat of the 14.5-acre Outlot A, APPLE VALLEY EAST FAMILY ADDITION into 54 single family lots on approximately 9 acres with the remaining 5.5 acres subdivided into two outlots. Access to the platted lots will be via a public street that will intersect with Embry Path at two locations.

The site plan shows the creation of 54 single-family residential lots, with the majority of the lots having a 40-foot wide lot width with a minimum lot area of 4,752 sq. ft. A typical single-family lot in the “R-3” zoning district has a minimum 80-foot lot width and minimum 11,000 sq. ft. lot area. However, the minimum lot width and lot area in zone 2 of “PD-703” (Cobblestone Lake) is 40 feet and 4,800 sq. ft. Therefore, the lot width and lot area would be a significant departure from our typical area requirements but would be somewhat consistent with the requirements in the planned developments located to the south (PD-703) and east (PD-629, which has 5,000 sq. ft. min. lot area and 55-foot lot width) of the project site.

The plat should include drainage and utility easements, a minimum of 10 feet wide, which shall abut the street right-of-way and shall be centered on the rear and side lot lines. The layout of the streets should meet the design standards for a 30 MPH street. The horizontal curves should have a minimum radius of 100 feet. The proposed south east-west street width can be reduced to 30 feet and the right-of-way to 54 feet.

Staff has concerns about creating an outlot (Outlot B) around the existing stormwater pond, due to the tendency for these outlots to go tax forfeit, which can create ongoing maintenance/responsibility issues. The pond should remain in Outlot A, and the ponding area be incorporated into a lot at the time of the replatting of Outlot A. In addition, a drainage and utility easement should be placed over the ponding area.

The planned development ordinance requires the installation of an undulated sodded landscaped berm or berms adjacent to any principal or minor arterial streets at a maximum 3:1 slope. This is to provide a screening element and help to soften any adverse impacts from vehicular traffic on a high volume road, such as Pilot Knob Road, a principal arterial that has a current volume of 21,500 vehicle trips per day and is projected to be 35,000 vehicles per day by 2030. The original grading plan indicated a small berm, 2-4 feet high, along the west side of the lots directly adjacent to Pilot Knob Road. The revised plan indicates a continuous 4-foot high berm along Pilot Knob Road and a 6-foot high berm along Outlot A’s north property line. The berm along Pilot Knob Road shall be increased to 6 feet.

The “PUD Site Plan” identifies 48 on-street parking spaces. In order to provide better access to the on-street parking spaces, staff is recommending parking be located on the north side of the north east-west street and on the west side of the north-south street.

The applicant has provided a plan that identifies the vehicular access points into the Outlot A. It includes a ¾-access off 155th Street West and a right in/right out intersection off Embry Path. The access off 155th Street West will require the construction of a northbound left turn lane. Staff has no issue with the proposed accesses as presented.

The site plan identifies an 8-foot wide bituminous path, located just north of the existing pond that will extend from the existing pathway along the east side of Pilot Knob Road to the sidewalk along the west side of Emblem Way. This pathway is not located in the proposed right-of-way; therefore, a sidewalk/trail easement should be established over that section of pathway to ensure that it will exist in perpetuity.

Lovelace asked for questions or comments from the Planning Commission.

Commissioner Scanlan commented that he is still concerned with the lack of on-street parking.

Chair Churchill said that the developer does meet the parking requirements.

Chair Churchill called for a motion.

MOTION: Commissioner Diekmann moved, seconded by Commissioner Burke, to recommend approval of the amendment to the 2030 Land Use Map to redesignate the north 9 acres of Outlot A, APPLE VALLEY EAST FAMILY ADDITION from “MD” (Medium Density Residential/6-12 units per acre) to “LD” (Low Density Residential/3-6 units per acre) and the south 5.5 acres of Outlot A, APPLE VALLEY EAST FAMILY ADDITION from “MD” (Medium Density Residential/6-12 units per acre) to “C” (Commercial).

The motion carried 6-0.

MOTION: Commissioner Burke moved, seconded by Commission Diekmann, to recommend approval of the rezoning of the north 9 acres of Outlot A, APPLE VALLEY EAST FAMILY ADDITION to Planned Development No. 849/zone 2.

The motion carried 6-0.

MOTION: Commissioner Burke moved, seconded by Commissioner Schindler, to recommend City Council direct staff to prepare planned development ordinance amendments for Planned Development No. 849/zone 2 that include permitted, conditional, and accessory uses; and area requirements and special performance standards consistent with the proposed development plans, including but not limited to the following:

- A 6-foot berm shall be constructed along the west property lines of Lots 1-9, Block 1.
- Maximum driveway widths within the street right-of-way shall be 14 feet.
- A landscape plan shall be prepared and approved by the City, which shall provide screening from adjacent uses.
- If there are other utilities proposed in the easement, trees shall be planted out of the drainage and utility easement and in the private backyards.
- A right in/right out only intersection shall be allowed along the west side of Embry Path. This intersection shall align with the existing most southerly intersection into the APPLE VALLEY EAST ADDITION, located along the east side of Embry Path.
- A $\frac{3}{4}$ access shall be allowed along the north side of 155th Street West.
- Parking shall be allowed on one side of the public street and shall be located on the north side of the north east-west street, the west side of the north-south street and on the south side of the south east-west street.

The motion carried 5-1. Commissioner Scanlan dissented.

MOTION: Commissioner Burke moved, seconded by Commissioner Diekmann, to recommend approval of the APPLE VALLEY FAMILY EAST FAMILY 2ND ADDITION preliminary plat, subject to the following:

- Outlot B shall be incorporated into Outlot A.

- The layout of the streets within the plat shall meet the design standards for a 30 MPH street and the horizontal curves shall have a minimum radius of 100 feet.
- The proposed south east-west street shall be reduced to 30 feet with a 54-foot right-of-way to match the other streets.
- A drainage and utility easement shall be provided over the ponding area.
- A trail easement shall be placed over the trail that runs from the trail along the east of Pilot Knob Road to the sidewalk along the west side of the proposed street within the development.
- The Emergency Overflow (EOF) shall be lowered from an elevation of 939.2 to 938.0 between Lots 4 and 5, Block 1.
- Dedication of one foot (1') wide easement which will restrict direct driveway access from Outlot A to Emblem Way.

The motion carried 5-1. Commissioner Scanlan dissented.

7. OTHER BUSINESS

- A. Apple Valley Bus Rapid Transit Layover Study – Discussion of a study being conducted by Minnesota Valley Transit Authority (MVTA) to determine a bus layover site in the City of Apple Valley within .5 miles of its Apple Valley Transit Station (AVTS) located at 155th Street and Cedar Avenue. The layover site will provide a short-term bus storage and staging area for transit service operating along the Cedar Avenue Transitway.**

Community Development Director Bruce Nordquist stated that since May, the Minnesota Valley Transit Authority (MVTA) has undertaken a study to address future operational needs to support the successful Apple Valley Transit Station (AVTS). To date the research has included:

- The study of multiple locations generally within a half mile of the AVTS.
- An explanation of layover and staging needs.
- The conclusion that two sites, with multiple layout options, are the most proximal and cost effective.

Nordquist shared a presentation prepared by the planning consultant team representing the MVTA study; the consultants are focusing on the “B2” and “C” options.

Staff review to date provides the following information:

- The B2 site is the best land use buffered location if properly designed, as it accommodates both the layover need and can be integrated with future private development. Of the 4 acres available, the most northerly 1 to 1.5 acres directly adjoining the rear of the Cub store should be considered with internal connections and circulation to the existing park and ride area. A project (seen as a phase 1 to be connected to future private development) would create the staging/layover pavement needed for 2020 and 2030. Placement and design also should anticipate placing a deck structure over a portion or all of that area for more vertical development consistent with present zoning. That deck could be a future developer expense related to the remainder area. Future development would fully utilize the site and further shield the layover/staging from existing and future uses. The maximum intensity use of the site in the future offers the best potential for property tax base return and marketability and would be consistent with the present zoning.
- At C, the proximity to residential makes the old AVTS site unacceptable with the 2020 forecasted 156 buses from 6-9 a.m. and 150 buses from 3:30-6:30 p.m. This location places constant peak hour

bus movements that much closer, within 120 feet, to the Cortland and Orchard senior housing and Chasewood family townhomes and owner occupied housing to the east. Over 230 housing units are directly adjacent. What once was a static field of parking adjacent to these 230 units becomes a very different character that impacts quality of life for seniors and families, and owners and renters. Further, the remainder site is long, narrow, and isolated, losing street frontage opportunities, visibility, connection and access, thereby significantly reducing potential property tax return and marketability. To improve compatibility at this site requires complete enclosure of the layover/staging uses in a building from the onset (as occurs in more industrial MVTA locations in Burnsville and Eagan). As an alternative, a noise wall could be considered; MVTA, instead of a future private developer, might have to incur that cost of improvements. While existing bus driver break facilities could be used, the total project cost with complete enclosure or other noise attenuation makes C a more costly facility even though operational costs may prove lower.

- Both sites are displayed in the PowerPoint images as full coverage parking options. During the review and approval process for AVTS, it was not anticipated that parking fields would remain and expand. Instead, "PD-507, Zones 7A and 7B" were created to encourage higher intensity development and the reduction of surface parking lots.

Nordquist asked for questions or comments from the Planning Commission.

Chair Churchill asked why the city of Apple Valley was selected as a site for layover.

Nordquist stated that the layover has to occur in proximity to where the routing begins. He said that routing begins, particularly for the express routes, at the Apple Valley Transit Station for over 2,000 riders every day. To move farther away would require the addition of more buses and raise concerns about operational efficiency and costs that would make it prohibitive. A layover solution is needed and has never been discussed before. He said the layover and staging will also be occurring in Minneapolis.

Commissioner Diekmann commented that he preferred site B2, option 1. He said that the buffering between Cub Foods and the deliveries that are made seems to be the most compact and offers the most parking. He stated that the flat surface parking lot is the easiest land to develop if it was desired to build vertically in the future.

Commissioner Schindler asked how the buses get into the site B2 site.

Nordquist stated that the buses may use 155th Street West and enter from the south side of the development or they may use 157th Street West, north on Gaslight Drive, and then use 155th Street West to enter the south side of the development.

Assistant City Engineer David Bennett stated that he recalled that the movement of the buses would be northbound on Gaslight Drive, eastbound 155th Street West and then a left into the layover staging area.

Commissioner Schindler asked what would become of site C, option 1 if it is not used for the layover and staging area.

Nordquist replied that when the Transit Oriented Design (TOD) study was performed, this 3-acre parcel was seen as a mixed use type of development and could be both housing and service type retail with supported parking.

Bennett commented that the primary movement for access to the parking facility on the north side of 155th Street would be vehicles coming from Cedar Avenue, potentially making right turns onto 155th Street eastbound. He said that there will be a reduced number of conflicts with buses making right turns eastbound onto 155th Street West and fewer conflicts with people accessing the transit site and the buses.

Commissioner Schindler thinks the site C, option 1 makes sense to limit the need for turns by the buses. He also asked what the circular pattern on the map depicted.

Nordquist stated that it is a landscape buffer. He also expressed concern that maybe it should be a noise wall to reduce the impacts of the buses idling.

Commissioner Schindler said he is concerned about the neighboring properties.

Commissioner Alwin commented that he likes the B2, options 1 and 3, because all the bus activity is in one physical area. He said he hopes that there will be the option to add additional decking because they will need to park all the vehicles for the park and ride people.

Nordquist said there will be about 400 additional cars and 2 levels added to the ramp.

Commissioner Alwin said he doesn't see commercial there because it will be hard for people to get enter and exit with all the cars and buses. He sees more housing or office space.

Chair Churchill said she would like the buses to tunnel under 155th Street West to get to site B2 and park them adjacent to the existing park and ride.

Nordquist clarified that the Chair means to bury the services and have commercial on top.

Chair Churchill stated yes.

Commissioner Scanlan asked if they've talked about bus technology and their expectations for the future in regards to reduced emissions, noise, hybrids, etc. He stated that site B2, option 3 is a good option because the noise is in an area that is less objectionable. He said that site C is more efficient with the less turns but then it's close to housing.

Nordquist said they have been working on the viable options, and the buses are quieter and more fuel efficient. He said that is all part of their design, although they haven't picked the model yet.

Commissioner Diekmann commented that the number one thing the Planning Commission needs to be concerned with is the land use. He commented that the efficiencies of the bus system are second to him and the land use is obviously more important. He said the Planning Commission would want to support either site depending on which option makes the best use of the land, although he thinks site C will have more challenges.

Nordquist said, as an example, the most cost effective plan is to widen the streets and create some side pockets along the streets and keep it out on Gaslight Drive. But it is not a permanent solution; there are issues of safety and congestion. There also is not a way to create enough bus storage within this area without interfering with housing or access.

Commissioner Burke commented that they should have built it under the parking ramp.

Nordquist replied that he believes that idea was rejected because of the pedestrian and bus traffic conflict within the ramp, although he said he will bring that up again.

Chair Churchill said that when the Planning Commission looks at land use, the worst thing they could do is make a “quick and dirty” decision just to accommodate buses that and then let it become a permanent solution that destroys land use for both sites B and C. She said the movement of the buses can destroy the economic value of both of the parcels unless the Planning Commission does it right.

Commissioner Burke asked if all the stacking is needed only in the morning because all of the stacking would be in downtown Minneapolis in the evening.

Nordquist said that according to the charts there is still a volume of stacking because they are not going to enter the system until it is their time to enter the system. They will need to layover somewhere.

Hearing no further comments, Chair Churchill thanked Nordquist.

B. Minnesota Supreme Court Ruling on City Variances – Discussion of the recent ruling handed down by the Minnesota Supreme Court regarding a city’s authority to grant a variance.

Community Development Director Bruce Nordquist stated that from time to time the City Attorney provides the City with updates on legal actions of interest to the City.

Nordquist said that last week the Minnesota Supreme Court issued a ruling in the matter of Krummenacher vs. City of Minnetonka related to the standards a City must apply in considering future variance requests. A written summary of the case prepared by City Attorney Mike Dougherty was in the Commission’s packets for review and discussion.

Between 2005 and 2010, the Planning Commission has evaluated 48 variances. A summarized sorting of types indicates:

- 17 variances were for setbacks; primarily front yard.
- 18 variances were for a variety of other requests.
- 13 variances were withdrawn after full review by staff and the Planning Commission.

The League of Minnesota Cities is planning to study the issues raised and a possible legislative action in response.

City Attorney Sharon Hills said that the Minnetonka Supreme Court decision dealt with two issues: (1) expanding non-conforming uses; and (2) if the City wants to grant a variance to allow expanding non-conforming. Currently, the City’s ordinance does not provide for variances for non-conforming uses. She said that will need to appear on the agenda soon.

She said the more essential item in this decision is the standard to apply for variances. This City and cities across the state have regularly applied a reasonable use standard that isn’t necessarily how the language reads of the statute but whether what the applicant wants to do is reasonable.

The Supreme Court has made it very clear that unless the applicant can establish and the City finds that there is no reasonable use of the property itself without the variance, there is no hardship.

Hills asked if there are any questions.

Chair Churchill said that the City has been pretty liberal in granting variances if it allows a property owner to improve or upgrade their property. The City should consider if it wishes to be more flexible to encourage homeowners to reinvest.

Commissioner Schindler commented that it sounds as if there is no chance of a variance ever going through again.

Hills explained with an example – a parcel of land that is challenging, pie-shaped, rolling topography and the owner wants to build a home. They are unable to meet any of the setback requirements. Then they may be granted a variance because without it they cannot have reasonable use of the property.

Chair Churchill thanked Hills.

C. Review of the Upcoming Schedule and other Updates

Community Development Director Bruce Nordquist stated that in the past two weeks, Apple Valley has been featured in two national magazines:

- 1) *Money Magazine's* August issue announced Apple Valley as the 20th Best Place to Live in the country in 2010.
- 2) On July 23rd, *Urban Land* magazine, the publication of the Urban Land Institute, a national organization of public and private leaders involved in responsible land development and creating thriving communities, featured Apple Valley in an article about Bus Rapid Transit Oriented Development.

He said a copy of the article was provided, stating “The \$21 million Apple Valley Transit Station (AVTS) facility shows that bus infrastructure can provide the type of landmark that could boost place making for a neighborhood.”

Nordquist commented that both of these featured City items really highlight Apple Valley as a sought-after livable community.

Chair Churchill thanked Nordquist.

8. ADJOURNMENT

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

MOTION: Commissioner Burke moved, seconded by Commissioner Diekmann, to adjourn the meeting at 9:39 p.m. The motion carried 6-0.