

CITY OF APPLE VALLEY  
PLANNING COMMISSION MINUTES  
JANUARY 13, 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, Tom Melander, David Schindler, Ken Alwin, Tim Burke, Keith Diekmann and Paul Scanlan

Members Absent: None

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

**2. APPROVAL OF AGENDA**

Chair Churchill asked if there were any changes to the agenda.

Community Development Director Bruce Nordquist stated that an item has been added to the consent agenda, item 4A, setting a public hearing for the 2010-14 Capital Improvements Program.

Chair Churchill called for a motion.

MOTION: Commissioner Burke moved, seconded by Commissioner Diekmann, to approve the agenda as amended. The motion carried 7-0.

**3. APPROVAL OF MINUTES OF DECEMBER 16, 2009**

Chair Churchill asked if there were any changes to the minutes. There being none, she called for approval of the minutes.

MOTION: Commissioner Burke moved, seconded by Commissioner Alwin, to recommend approval of the minutes of the December 16, 2009, meeting. The motion carried 7-0.

**4. CONSENT ITEM**

**A. Set Public Hearing for 2010-14 Capital Improvements Program.**

Chair Churchill asked for an explanation from City Planner Tom Lovelace.

Lovelace stated that the City Administration annually prepares the five-year Capital Improvements Plan (CIP) which provides the overall improvements and capital expenditures for the City. The CIP is part of the Comprehensive Plan, therefore every time the CIP is amended, the Comprehensive

Plan needs to be amended. Staff is requesting this evening that the public hearing for the Capital Improvements Plan be set for Wednesday, February 3, 2010.

Chair Churchill asked for any further comments from the Planning Commission or staff. Hearing none she called for a motion.

**MOTION:** Commissioner Melander moved, seconded by Commissioner Burke to set a public hearing to be held before the Planning Commission on Wednesday, February 3, 2010, to receive comments on the proposed update of the 5-year Capital Improvements Program. The motion carried 7-0.

## **5. PUBLIC HEARING**

### **A. Cobblestone Lake South Shore 5<sup>th</sup> Addition – Consideration of rezoning and subdivision of 9.14 acres to allow for a ten unit detached housing development on the easterly 2.09 acres and 7.1 acres of public park.**

City Planner Tom Lovelace stated that the applicant is requesting approval to allow for the rezoning and subdivision of 9.14 acres. The proposal calls for the rezoning of 2.04 acres of property from Planned Development-703/zone 8, which allows for sand and gravel mining, to Planned Development-703/zone 2, which allows for single family dwellings; and amendments to area requirements and performance standards that would be applicable to a detached single family “townhome” development. The 2.04 acres would be subsequently subdivided into ten residential lots for the purpose of constructing the detached townhomes, with the remaining lot to be used for common open area and the location of a private street and driveways. The 7.1-acre outlot would be rezoned from Planned Development-703/zone 8, to Planned Development-703/zone 7, which allows for parks, playgrounds, recreational and community buildings, and public utility buildings and structures.

The petitioner is proposing to plat a 2.04-acre parcel into 11 lots for the purpose of constructing 10 single family detached townhomes, with Lot 11 to be used for common open area for the residential development. The remainder of the property within the proposed preliminary plat will be platted as an outlot (Outlot A) and will be dedicated to the City for public park purposes.

Outlot A and approximately .18 acres of Lot 11, Block 1, represent a portion of property that currently has a park, sidewalk, trail, drainage and utility and temporary construction easement over it. The petitioner would like to vacate certain areas of the easement to allow for the incorporation of .18 acres of property within the easement into the residential portion of the plat. The petitioner is proposing to eliminate the most westerly .5 acres of the property identified in Area L, as indicated on the attached easement plan, from the area in Outlot A, which will be dedicated for public parkland. The petitioner is proposing to dedicate a .16-acre section of property located between the east edge of Area L and west edge of the proposed residential development, which is not part of the park, sidewalk, trail, drainage and utility and temporary construction easement, for public parkland. The City is reluctant with giving up its rights to this property, therefore, we will suggest at the vacation hearing that the park, sidewalk, trail, drainage and utility and temporary construction easement remain over the .5 acres of property.

The preliminary plat identifies a drainage and utility easement, varying in width from 4 to 50 feet around the perimeter of Lot 11. Revisions should be made that create a drainage and utility easement over all of Lot 11.

The city's Traffic Engineering Consultant has recommended that the west side of Eastbend Way from the private street intersection, south to Cobblestone Lake Parkway be designated "No Parking" and signed appropriately.

The elevation drawings do not indicate the type of material that will be used for the exterior siding. The use of vinyl, steel, aluminum, or similar materials for the exterior finish is prohibited in this planned development ordinance zoning district.

No landscape plan has been submitted with this request. The petitioner shall submit a landscape plan that includes the size, location, quantity, and species of all plant materials and the method of maintenance. The minimum cost of live landscape materials, excluding sod, shall be 2-1/2% of the estimated building construction cost based on current Means construction data.

An existing catch basin located along the north side of Cobblestone Lake Parkway will need to be relocated approximately 20' east due to the recommendation by the City's Traffic Engineer that the most westerly recessed on-street parking space be eliminated due to sightline concerns. The Assistant Engineer is recommending that the catch basin be replaced with a storm sewer manhole.

Lovelace asked for comments or questions from the Planning Commission.

Commissioner Scanlan made a remark in regards to accessing Lots 9 & 10. He stated that residents and visitors of those two units entering from the west will need to make a u-turn. He asked if that is a concern.

Lovelace stated that the traffic engineer took a look at this and his feeling is that the amount of traffic generated by the two dwelling units would not be such, that if u-turns were made at that location, that it would have an impact on traffic flow on Cobblestone Lake Parkway.

Commissioner Scanlan stated that he tried making that u-turn with a mid-sized SUV and he could barely make it at this time of year with the snow piled up. He said that a larger vehicle would need to stop and back-up.

Lovelace stated that if the City were to install a curb cut there to allow for entering and exiting from the two units, that would be more detrimental to the flow of traffic, than it would be for allowing vehicles to make the u-turn.

Commissioner Scanlan stated that another concern of his is the close proximity to the roundabout.

Lovelace replied that was also brought up with the traffic consultant and based upon the amount of traffic generated by the two units and the traffic along Cobblestone Lake Parkway he did not anticipate any conflicts.

Chair Churchill asked Lovelace what the net gain would be of the park land on the east side with the property that would be moved into the buildable lots as opposed to what would be added to the park.

Lovelace said that the net gain and net loss is almost a wash.

Chair Churchill said it does look awfully close.

Lovelace said the Parks Department recommended to the developer to push back the amount of land that was needed to be vacated because of the existing trail system.

Commissioner Alwin stated that there wasn't yet a definitive plan for the park land, although there is the possibility of fixed playground equipment. He asked if the traffic projections took into account future development of that park area.

Lovelace stated that he can ask the traffic consultant about that. He stated that it is a neighborhood park so the expectation is that it would be used by the neighborhood.

Commissioner Alwin asked if the City is anticipating a parking area.

Lovelace said he will check with the Parks Department and follow-up on that.

Commissioner Alwin stated that if that will be a destination park, parking would be difficult in this area, especially since it's next to a roundabout.

Lovelace said there is recessed parking all along Cobblestone Lake Parkway. The design of the overall area is to create a walkable neighborhood with trail connections.

Hearing no further comments or questions from the Planning Commission, Chair Churchill asked the petitioner to step forward.

Jacob Fick with South Shore Development stepped forward to address the Planning Commission. He stated that their proposal is for a ten-unit detached townhouse, single-family, association-maintained development that will have maintained exteriors and grounds, without a common wall. The developer has seen a desire for this product, especially with the recent market and financing. This construction allows some separation between neighbors, but also allows the builder to sell one unit at a time. The developer has built a similar product in the communities of Prior Lake, Woodbury and Lakeville and it has been very well received.

Mr. Fick said that they do have an easement over the majority of what they have built. They are working with City Parks staff on the design which does include a small parking lot, expected to be approximately 6-10 parking stalls. The park will have one trail, possibly two trails that will connect to the trail going around the lake. Mr. Fick said they are hoping to possibly have a model available for the Fall Parade of Homes event.

Chair Churchill asked for comments from the public. Hearing no comments from the public she asked if staff had anything to add.

Lovelace stated that because the public hearing regarding the vacation of the park, sidewalk, trail, drainage and utility and temporary construction easement will be held on January 14, 2010, the City Attorney has advised staff that the public hearing should remain open and continued to the next meeting so that staff can provide the Planning Commission with a summary of vacation hearing comments.

Chair Churchill called for a motion to continue the public hearing to the meeting of Wednesday, February 3, 2010.

**MOTION:** Commissioner Burke moved, seconded by Commissioner Diekmann to continue the public hearing to the Planning Commission meeting of Wednesday, February 3, 2010, at 7 p.m. The motion carried 7-0.

## **6. LAND USE/ACTION ITEMS**

### **A. Winslow Variance – Consideration of a variance to allow for the impervious surface coverage to exceed 35% on a residential lot.**

Associate City Planner Margaret Dykes stated that the petitioners reside at 6704-133<sup>rd</sup> Street West, which has a lot area of 13,650 sq. ft. The maximum impervious surface area for this lot is 4,778 sq. ft. According to the information provided by the applicant and verified by staff, 5,566 sq. ft. or 40.8% of impervious surface now covers the lot. This includes the house, driveway, walkway, swimming pool and decking, and an existing 16' x 20' deck. The applicant would like to remove the deck and construct an 18' x 20' house addition in its place. This adds 40 sq. ft. of impervious surface, bringing the total to 5,606 sq. ft. or 41% of the lot. The addition causes a minimal increase in the percent of impervious surface. However, because it is a change of use (from deck to house addition), the applicants were informed when they applied for a building permit that a variance review would be necessary.

In 2004, the City revised the Code and limited the maximum impervious surface coverage for single family homes to 35% of total lot area. Prior to this, there was no restriction on the impervious surface coverage for single-family lots. The impervious surface restriction was done because a Memorandum of Understanding signed by the City and the Vermillion River Watershed District placed restrictions on the amount of stormwater that can leave the City's boundaries. The City has the maximum coverage requirement so that stormwater will infiltrate on-site and not flow into the City's storm sewer system.

It appears the property owners, who have resided in the house since at least 1987, made the improvements to the home prior to the City's adoption of the maximum impervious surface requirement. The house was constructed in 1971, and the pool installed in 1987, for which the property owner received a building permit. It's unclear when the deck was constructed. But it does appear that the property owners did comply with the City ordinances in place at the time when the pervious improvements were made to the house.

The state statutes and the City's zoning code require that in order to approve a variance, the City must find that "special conditions applying to the structures or land in question are particular to such property, or immediately adjoining property; do not apply generally to other land or structures in the district; ...and that the variance will not merely serve as a convenience to the applicant, but is necessary to alleviate demonstrable hardship or difficulty."

The zoning ordinance was amended after the improvements were done, which made the lot a legal, non-conforming use. The owner wishes to further improve the house and increase the amount of livable space, which is encouraged by the Comprehensive Plan. Though there is no hardship related to the property, the City has approved similar requests to increase the impervious surface on single family lots with the condition that a rain garden or infiltration device to accommodate additional stormwater runoff be installed and maintained by the homeowner.

The City Engineer has calculated that 35 cubic square feet of stormwater runoff is generated by the additional 6% of impervious surface. A 6' x 6' x 1' raingarden could accommodate the additional runoff. The homeowner could also divert the additional runoff into existing gardens that allow for infiltration. The homeowner would like to complete the house addition this winter, and it is unlikely that the infiltration device will be able to be installed because the ground will not thaw until later this spring. To ensure that there are adequate assurances that the raingarden or stormwater infiltration device be installed, but still allow the property owner to construct the addition, staff recommends the following:

1. The property owner must submit plans for the device to be approved by City staff prior to issuance of a building permit.
2. The device must be installed, inspected, and approved by City staff by June 1, 2010.
3. The property owner must post a financial security in the amount of \$600 to be returned when the device has been installed and inspected.

The Natural Resources Coordinator is comfortable with the recommended conditions, and will work with the applicants to help them find an appropriate solution.

Dykes asked for questions or comments from the Planning Commission.

Chair Churchill hearing no comments from the Commission asked the petitioner to step forward.

Michael Winslow, 6704 133<sup>rd</sup> Street West, displayed pictures of his gardens for the Planning Commission members.

Commissioner Scanlan asked Dykes if the City has a design standard to follow for raingardens.

Dykes said that the City does have templates that are offered to homeowners. In this case, the Natural Resources Coordinator will help the homeowner through this process.

Commissioner Scanlan remarked that Dakota County also offers classes on raingardens. He said he attended one last year and it was very informative.

Chair Churchill asked Dykes what the Commission needs to do to make sure any future homeowners of this property will maintain this type of raingarden.

Dykes said that the Planning Commission can require that the variance be recorded at the Dakota County Recorders Office. She said that can be added as a condition of the variance.

Chair Churchill said this is a good way to handle these as the City will see more of them as improvements to the older housing stock in the City comes forward.

Hearing no further comments Chair Churchill called for a motion.

MOTION: Commissioner Melander moved, seconded by Commissioner Diekamann, to recommend approval of a variance increasing the maximum impervious surface coverage at 6704-133<sup>rd</sup> Street West (Lot 1, Block 7, Greenleaf 2<sup>nd</sup> Addition) from 35% to 41% because it is in keeping with the spirit and intent of the Comprehensive Plan, subject to all applicable City codes and standards, and the following conditions:

- a. The property owner must submit plans for a raingarden or stormwater infiltration device to be approved by City staff prior to issuance of a building permit.
- b. The device must be installed, inspected, and approved by City staff by June 1, 2010.
- c. The property owner must post a financial security in the amount of \$600 to be returned when the device has been installed and approved.
- d. The variance shall be recorded at the Dakota County Recorders Office.

The motion carried 7-0.

## **B. 2030 Comprehensive Plan Update – Consider adoption of plan.**

Associate City Planner Kathy Bodmer stated that the Comprehensive Plan is a document that guides the future growth of the City. It does address land use and future development, although it also covers a wide-range of ideas. The plan is a tool for guiding growth and continued economic development improvement for the City of Apple Valley. The Comprehensive Plan is a statutory requirement of the state, although it is a tool for the City. Items included in the Com Plan are the vision of the City, community context, land use, housing, economic development, parks and active living, transportation and utilities.

Bodmer stated that the Planning Commission began its work on the 2030 Comprehensive Plan Update at its May 2, 2007, meeting. The Commission worked diligently for two years on the update, reviewing numerous drafts, discussing issues with City Staff and consultant, and making recommendations to the City Council. As the Steering Committee for the project, the Planning Commission attended 10 work sessions outside of their regularly scheduled twice monthly meetings. The Planning Commission also attended two joint work sessions with the City Council which allowed the Commission to discuss their work directly with the City Council.

At its May 20, 2009, meeting, the Planning Commission recommended that the City Council authorize the 2030 update to be submitted to the Metropolitan Council; the Council authorized the

submission at its May 28, 2009, meeting. In mid-June the Met Council staff notified the City that additional information was required before the update could be reviewed by the Metropolitan Council. Staff worked with other departments and the consultant to compile the additional information that was requested.

At its December 9, 2009, meeting, the Metropolitan Council reviewed the City of Apple Valley's 2030 Comprehensive Plan update and authorized the City of Apple Valley to put the plan into effect. Bodmer stated that now the City may put the 2030 Comprehensive Plan update into effect.

Bodmer stated that the utilities portion of the plan does include the Tier II Sewer Plan which is reviewed and accepted by a separate body so technically it is a separate motion, although staff is asking that the Commission combine the two and act on it as one motion.

Bodmer asked for questions or comments from the Planning Commission.

Chair Churchill commented on and recognized the numerous public meetings that were held and thanked the public for their participation and the City's consultant who facilitated the entire process. She thanked the entire City staff, Planning staff and the members of the City Council and the Planning Commission who worked on the Comp Plan. She said it was an exhaustive process and in this plan, she believes that they were dealing with some particularly tricky issues that involved a lot of cooperation from business owners and also people who own property that is yet to be developed. This is a plan that has been created, enabled and facilitated by the work of a lot of people who aren't here this evening. Chair Churchill gave a sincere thank you to everyone involved.

Chair Churchill called for a motion.

**MOTION:** Commissioner Diekmann moved, seconded by Commissioner Burke, to recommend approval of the draft resolution adopting the 2030 Apple Valley Comprehensive Plan Update including the Tier II Comprehensive Sewer Plan. The motion carried 7-0.

Bodmer added that the City is required to ensure that its official controls (Zoning Code, Subdivision Code and Capital Improvement Plan) comply with the Comprehensive Plan within nine months of the adoption of the updated plan. Any ordinance amendments will be forwarded to the Planning Commission for their review and recommendation.

## **7. OTHER BUSINESS**

### **A. Review of the Upcoming Schedule and other Updates**

Community Development Director Bruce Nordquist presented to the Planning Commission the Summary of 2009 Planning Commission Activities:

- Comprehensive Plan drafted, completed and reviewed
- Walmart remodeling underway
- Transit facility and skyway construction completed
- Cedar Avenue Corridor planning underway

- CDA Senior Housing at Cobblestone under construction
- The Seasons plan review for building permit issuance completed
- Boston Market property cleared for White Castle Restaurant
- Mixed Business Campus promoted
- Multiple grants sought for supporting development

Nordquist also introduced anticipated actions for the Planning Commission and the City Council in 2010:

- Master Planning of the Mixed Business Campus
- Review and approval of Clearwire wi-max installation
- Revised development proposal for the Central Village triangle property
- Consider a new approach to Transit Oriented Development (TOD) at the remainder parcels next to Apple Valley Transit Station
- Process zoning amendments to make zoning ordinance consistent with the updated 2030 Comprehensive Plan
- Identify “transit improvement areas”; development opportunity areas along the Cedar Corridor
- Master planning of an expanded Augustana campus
- Site plan/building permit authorization proposed for office/showroom/warehouse development on remaining 10-acre parcel north of Fischer Marketplace and 147<sup>th</sup> Street
- Remodeling the exterior of Time Square; review design elements
- Commercial development on the remaining 7-acre parcel in Hillcrest Acres (Home Depot area)
- Site/plan building permit authorization for 4,500 sq. ft. bank near Cobblestone Lake

## **8. ADJOURNMENT**

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

MOTION: Commissioner Melander moved, seconded by Commissioner Diekmann, to adjourn the meeting at 8:07 p.m. The motion carried 7-0.