

CITY OF APPLE VALLEY
PLANNING COMMISSION MINUTES
AUGUST 17, 2011

1. CALL TO ORDER

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

Members Present: Tom Melander, Tim Burke, David Schindler, Ken Alwin, Paul Scanlan, and Brian Wasserman, Keith Diekmann

Members Absent: None

Staff Present: Community Development Director Bruce Nordquist, Associate City Planner Kathy Bodmer, City Attorney Sharon Hills, Assistant City Engineer David Bennett, Department Intern Addison Lewis

2. APPROVAL OF THE AGENDA

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

MOTION: Commissioner Alwin moved, seconded by Commissioner Scanlan, to approve the agenda. The motion carried 7-0

3. APPROVAL OF THE MINUTES AUGUST 3, 2011

Chair Melander asked if there were any changes to the minutes. Melander noted on page six, in the third paragraph from the bottom, an error stating Ted Carlson as an employee of Lifeworks Services. He clarified that Ted Carlson is not an employee of Lifeworks, but is a commercial real estate broker representing Lifeworks. Pending this correction he called for approval of the minutes.

MOTION: Commissioner Diekmann moved, seconded by Commissioner Alwin, to recommend approval of the minutes of the August 3, 2011 meeting. The motion carried 7-0.

4. CONSENT ITEMS

-NONE-

5. PUBLIC HEARINGS

- A. Apple Valley Business Campus – Public hearing to consider subdivision by plat of 27 acres of industrially zoned property into two lots and two outlots.**

City Planner Tom Lovelace said that the petitioner is requesting approval of a subdivision by plat of an existing 27-acre outlot to create two lots and two outlots for the purpose of construction of two office/warehouse buildings on the proposed lots and future industrial development on the two outlots. The site is located at the northeast corner of 147th Street West and Flagstaff Avenue. The site is zoned "I-2" (General Industrial) and is guided for "IND" (Industrial) in the City's Comprehensive Plan. The uses proposed by the petitioner would be consistent with both the zoning and Comprehensive Plan designation.

Lovelace said the site is relatively flat with the exception of the northwest corner and the southwest corner where a few trees are located. The trees would have to be removed for any development on the site. The site has historically been used for crop production.

The city code defines lot width as the distance measured between lot lines, parallel to the front lot line at the minimum required front yard setback. The code goes further to define the front lot line as that boundary of a lot which abuts an existing or dedicated street. Lot 1 has approximately 350 feet of frontage along future Flagstaff Avenue to the west and approximately 42 feet along future Flagstaff Court to the south as does Lot 2. Although it is unlikely that Lot 1 will not gain access off of Flagstaff Avenue, the lot width along that future roadway meets the minimum code requirements. However, Lot 2 does not meet the requirement; therefore adjustments will need to be made. The applicant could meet this requirement by incorporating the storm water pond area currently located in Outlot B into Lot 1. A driveway will be shared by Lots 1 and 2 to provide access to the back of the buildings.

The most westerly portion of the site is the current location of several underground pipelines, which have a 200-foot wide easement over those pipelines and will restrict the property owner's use. Their grading plan indicates a retaining wall located in the southwest corner of Outlot A that will be in the pipeline easement. Generally, the Magellan Pipeline Company is restrictive on what can or cannot be located within a pipeline easement. Therefore, the applicant will need to get permission from the pipeline company to allow for the encroachment of the retaining wall.

The MAGELLAN ADDITION final plat has dedicated the necessary right-of-way for 147th Street West, a community collector that will provide access to the property. In order to construct this roadway along the south edge of the project property, the pipelines located within the road bed will need to be lowered or relocated or an easement/right-of-way will need to be dedicated on the property to the east of the project site. Staff has been working with both Magellan Pipeline Company and Hanson Pipe and Concrete Products Company to try to secure those easements/approvals that would assist with the construction of the roadway within the existing dedicated right-of-way, but neither has been secured as of this date. Securing one or both of these items is important to getting all or a portion of that street constructed. If only a portion of 147th Street West from the east or the west is constructed as part of this development project, it will be necessary to provide a temporary turnaround at the end of the section of road.

Construction of 147th Street West may likely require temporary construction easements to allow for work outside of the right-of-way.

The plat identifies two large ponding areas between the lots and outlots and two smaller ponding areas located just north of the Lots 1 and 2. They show drainage and utility easements over the two large ponds, but not over the smaller ponds. Staff will need to know how those ponding areas are going to function.

The submitted plans indicate two private driveway connections from proposed 147th Street West. Staff would propose restricting direct access from 147th Street West to the two outlots via an access restriction easement and require that access be gained from Flagstaff Court. An access restriction agreement, which

limits access to proposed 147th Street West, should be executed as part of any final plat approval. A similar access restriction agreement for Flagstaff Avenue should be executed.

The petitioner is proposing to dedicate land for right-of way for Flagstaff Court. This street, which will be constructed within 80 feet of right-of-way, will terminate in a cul-de-sac. The cul-de-sac at the end of Flagstaff Court does not meet the City's standard cul-de-sac design. The applicant should revise their plans to show the necessary right-of-way for a "teardrop" cul-de-sac. Sidewalks should also be constructed on both sides of Flagstaff Court.

A storm sewer line is proposed to run north/south along the common property for Lots 1 and 2 within a 20-foot wide drainage and utility easement. Staff would like this easement to be increased to 40 feet to better accommodate access and maintenance of the utilities within the easements.

Also, the Assistant City Engineer has requested that the applicant submit storm water calculations for the site to ensure that the drainage areas are properly sized.

The applicant has not requested site plan/building permit authorization approval for the proposed building projects on Lots 1 and 2, but has submitted site, grading and utility plans.

Chair Melander asked if there were any outstanding issues from staff that would require a second hearing.

Lovelace stated that staff would like to have revisions made on the drawings before making a recommendation.

Mark Hebert of Hebert & Associates, the applicant, stated one of his biggest concerns would be not having access off of 147th Street West to outlots A and B. He said he would continue discussing the consequences of this with his design team. He says that this product is very similar to the other building he has on 147th St W. The building to the west has 3,000 foot bays designed to accommodate an industrial user between 3,000 and 9,000 feet. The building to the east would accommodate the 5,000 to 20,000 foot users. Hebert said that he is in negotiations with a machine shop to occupy half of the building proposed for the outlot on the west side of the property. He also said he would encourage 147th St W to go through to Johnny Cake Ridge Rd.

Commissioner Wasserman asked if the area in the southwest corner of the property was a designated wetland for drainage.

Lovelace said that there is a significant downward slope from previous sand and gravel mining on the neighboring site but that it was not a designated ponding area.

Chair Melander asked if there were any comments from the public. Hearing none, he closed the public hearing and stated that it is not the policy of the Planning Commission to act on an item the same night as its public hearing.

6. LAND USE/ACTION ITEMS

A. McNamara Comp Plan Amendment, Rezoning, and Preliminary Plat – Consideration of a Comprehensive Plan Amendment, rezoning, and preliminary plat to adjust the shared property line between the two existing lots.

Associate City Planner Kathy Bodmer stated that the property owner, McNamara Contracting Properties, LLC., is requesting consideration of the following actions:

- Comprehensive Plan Amendment from “LD” (Low Density Residential) to “IND” (Industrial)
- Rezoning from “SG” (Sand & Gravel) to “I-1” (Limited Industrial)
- Preliminary Plat of McNamara Addition

The McNamara site consists of two parcels totaling 10.4-acres, located immediately south of the City’s Central Maintenance Facility (CMF) and east of the Cedar Isle Estates development at 14325 Flagstaff Avenue. The properties are currently guided for “LD” (Low Density Residential) development and zoned “SG” (Sand & Gravel). A metal-sided building exists on the northern parcel which is used for office/warehouse purposes. No change in the use of the property is proposed with this request. The two parcels are being subdivided by shifting the common internal property line. McNamara Contracting Properties will continue to own the northern parcel, Lot 1, which is approximately 4.8 acres.

The City is working with McNamara Contracting Properties, LLC, to obtain the necessary right-of-way to extend Flagstaff Avenue from its current terminus on the southeast corner of the City’s Central Maintenance Facility (CMF) down to 147th Street West. The McNamara property is encumbered with a number of pipeline and utility easements which make the development of the property difficult. Because a large portion of the southern property was needed to accommodate the Flagstaff Avenue alignment, and because the large easements left the remaining property nearly unbuildable, the City will be purchasing the southern parcel (Outlot A) in order to complete the Flagstaff Avenue project. Once this missing segment is constructed, Flagstaff Avenue will extend from 140th Street West by Eastview High School south into Lakeville.

The property owner wishes to rezone the property to an industrial designation to allow the existing use of the property to remain as it is today as an office/warehouse building. The petitioner has no plans at this time to redevelop the property. In 2010, the City initiated a rezoning of the McNamara property to a low-density residential designation to make the zoning consistent with the Comprehensive Plan designation. However, the property owners objected, stating that the property could not be developed for low density residential development. The owners tried to market the property for a low density residential, but the numerous easements on the property made the property unsuitable for it.

The City’s Central Maintenance Facility borders the property to the north and although the facility is guided and zoned as an institutional use, it functions in the same manner as an industrial use. Heavy equipment including vehicles and machinery are operated and stored at CMF to maintain the City’s streets, utilities and other infrastructure. Amending the Comprehensive Plan to an industrial designation is consistent with other land uses in the area and would allow the existing use of the property to remain.

Because of numerous easements and setbacks, the site is quite limited in how it can be developed. A 75’ easement running north/south through the property leaves only 0.76 acres of buildable space on the west

side of the site and 2.2 acres on the east. Bodmer said that any new building would likely be built on the eastern part of the property.

Chair Melander asked if the western part of the lot would likely become a parking lot in the case of redevelopment. Bodmer replied that it would be very likely and that any building would probably be oriented towards Flagstaff Avenue.

Bodmer also replied to the following questions that were raised at the public hearing for this request, which was held at the August 3, 2011, Planning Commission meeting.

1. Why is the property being rezoned now? Why not wait until there is a buyer who would redevelop the property?

The request for the Comprehensive Plan amendment and rezoning is being initiated by the property owner in order to make the Comprehensive Plan and zoning align with the current use of the property. The property is currently being used for office/warehouse purposes which is a permitted use in the I-1 zoning district. State Law requires the City to consider requests for Comprehensive Plan amendments and rezoning whenever it receives a complete application. The City has received a complete application from the property owner and therefore must review and consider the request.

State law also requires that the zoning designation on the property be consistent with the Comprehensive Plan designation. The current zoning of the property is SG (Sand & Gravel) which is not consistent with the LD (Low Density Residential) Comprehensive Plan designation. Because sand and gravel mining and associated activities no longer occur on the property, the SG zoning designation is no longer appropriate for the parcel.

The LD Comprehensive Plan designation was initiated by the City when the 2020 Comprehensive Plan was adopted in 1999. The City's expectation was that Footbridge Way would be extended out to Flagstaff Avenue and then the McNamara property would be developed with small lot single family homes or townhomes which would be in keeping with the existing Cedar Isle Estates neighborhood. However, the property owner states that he has tried to sell his property for residential development, but the property is relatively small and encumbered with several large easements that make the property undesirable for residential development. Thus, he is requesting the rezoning to simply make the Comprehensive Plan and zoning on the property consistent with the current use of the property.

To pursue a low density residential development, the extension of Footbridge Way would need to be considered. No extension is planned.

2. The property owner says that he cannot make the property work to divide it into residential lots. Is there a second independent opinion? What could be done to address this without rezoning the property to industrial? What are the options?

Market studies are conducted by the property owner, not by the City. The property owner indicates that he has been trying to sell the property for residential development for over 10 years and no residential developers are interested in the property. As stated above, the City received a complete application, so it is required to consider this land use request at this time.

3. Concern about industrial designation. Concern that industrial uses will negatively impact the Cedar Isle Estates neighborhood.

Although the Comp Plan designation is “industrial,” the actual zoning on the property is proposed to be “I-1” (Limited Industrial) which is a more restrictive industrial designation. Heavy industrial uses such as meat-packing, asphalt plants, rendering plants, and auto wrecking yards would not be permitted. Any outdoor storage or display would require a conditional use permit (CUP) which would require a public hearing. Properties within 350’ of the property would be notified and issues of screening and any other impacts on the neighborhood would be reviewed by the City at that time.

The City Code contains regulations that will help address the neighbors’ concern about potential impacts from a light industrial business. Section 130.55 of the City Code prohibits the following activities between the hours of 10:00 p.m. and 6:00 a.m.: the operation of tools and maintenance equipment powered by external air compressors or internal combustion engines; repair and servicing of vehicles; and construction, remodeling, repair or maintenance of structures. Issues of noise, smells, light and other concerns are also regulated by Section 155.344 in the zoning code. In addition, Section 155.202 provides specific performance standards for light industrial uses. The section states that when a building permit is applied for, if the City has doubt about the ability of a proposed light industrial use to meet the performance standards, it can refer the matter to the Planning Commission and City Council who may approve or deny the building permit application.

In connection with the purchase of the property, the City will be installing a maintenance-free 6’ high privacy fence along the west and south property lines of Lot 1. The fence will provide a visual barrier and screen between the residential area and the existing office/warehouse building.

4. Are there other examples where the City owns undevelopable outlot property? City plans for outlot property it is purchasing.

The owner required the full acquisition of the southern property because after right-of-way is taken for Flagstaff Avenue, and in light of the other large easements and setbacks on the property, what is left of the southern property is nearly impossible to use.

While the City’s acquisition of property for the Flagstaff right-of-way is not germane to the Comprehensive Plan amendment or rezoning request, it’s not unusual for a city or governmental body to purchase additional property if the right-of-way that is being obtained renders the property unusable. For example, Dakota County purchased a residential parcel on 139th Street in connection with the Cedar Avenue construction project to construct a cul-de-sac. The right-of-way that was obtained rendered the property unusable, so the County purchased the entire property.

The City has no plans for Outlot A, McNamara Addition.

5. Will Footbridge Way be extended to Flagstaff Avenue? Was the property line created to allow the extension of Footbridge Way to Flagstaff Avenue?

The alignment of the property line could allow for a future extension of Footbridge Way to Flagstaff Avenue, but there are no plans to extend it. The alignment of the property line places the future extension

of Footbridge Way completely on the City property and within the City's control. The property line location is being requested by the property owner, not the City.

6. If Flagstaff Avenue is extended, it will make the McNamara property more desirable and result in increased traffic and noise through the area.

It is true that the extension of Flagstaff Avenue will make the McNamara building more visible and therefore, perhaps, more attractive for a light industrial user. As mentioned above, all use of the site would need to comply with the requirements of the zoning code and would not be permitted to emit noise, odors, light, etc., in violation of the City Code. Any outdoor display or storage would require a conditional use permit which would require a public hearing and notification of the Cedar Isle Estates neighborhood.

7. What buffers will be required?

In connection with the purchase of the Outlot, the City will install a minimum 6' high maintenance free privacy fence along the west and south property lines of Lot 1, the parcel owned by McNamara Contracting Properties. The fence will screen the property from the adjacent residential area.

8. Who owns the antenna? What will happen with it?

The tower is owned by McNamara Contracting Properties and was used for communications equipment with the vehicles. There is no plan for the tower.

In terms of the request to change the comp plan and zoning to an industrial use, amending the Comprehensive Plan and rezoning the property would make it consistent with its current use as an office/warehouse. Any outdoor activity such as outdoor display or storage would require a conditional use permit (CUP), which requires a public hearing and notification of residents within 350' of the property. Any sounds, smoke, light and other possible impacts would all be regulated by the zoning code.

Staff recommends approval of the Comprehensive Plan amendment, rezoning and preliminary plat of the McNamara properties with the following suggested motions:

1. Recommend approval of a Comprehensive Plan amendment from "LD" (Low Density Residential) to "IND" (Industrial).
2. Recommend approval of a rezoning from "SG" (Sand & Gravel) to "I-1" (Limited Industrial).
3. Recommend approval of the preliminary plat of McNamara Addition, creating one lot, one outlot and dedicating right-of-way and easements as depicted on the preliminary plat.

Commissioner Schindler asked if the City had any plans for the southern parcel it would be purchasing.

Bodmer introduced Public Works Director Todd Blomstrom who stated that the purpose of obtaining the property was for right of way alignment with Flagstaff Avenue. There is not much area to develop and the City will likely hold onto it as green space and will be responsible for maintaining it.

Commissioner Scanlan asked if the fence to screen for the neighboring residential would be on the City owned lot as well.

Bodmer stated that it would only be on the northern lot along the west and south property lines.

Commissioner Scanlan asked if any type of natural screening had been considered besides a fence.

Blomstrom stated that the terms of the purchase agreement gave mutual decision making power regarding the fence to the City and land owner. Both parties wanted a good quality fence for both screening and security.

Chair Melander asked to confirm that the city has adequate sand and salt storage, as well as vehicle parking.

Blomstrom said that the city does have adequate storage and would not consider moving any of the cities maintenance operations to the southern lot.

Commissioner Schindler asked why the city would put up screening along the southern property line of the northern lot.

Blomstrom stated that the city wanted to have control of the aesthetics of the site in the event the building changes in the future.

Commissioner Diekmann asked if the city has considered a pedestrian pathway from footbridge way to Flagstaff.

Blomstrom said that it is a possibility and that owning the land is usually the biggest obstacle.

Cedar Isles resident Lou Bernier inquired about the possible uses for future redevelopment. He asked for clarification of what a Class 1 restaurant is. He also asked about noise from automotive uses. He asked if the intent was to sell the site with the current building on it or if they were trying to build a new building. He asked if an 8' fence was an option rather than a 6' fence. He asked if a potential parking lot along the west side of the property would be allowed to build right up along the fence. He asked if the extension of Footbridge way was less likely if the property was zone industrial.

Bodmer said that a Class 1 restaurant is a full service, sit-down restaurant. However, she added that it is probably not a site that a Class 1 restaurant would want to be. With regard to automotive noise, the noise ordinance has a provision that says that mechanical equipment like air wrenches are prohibited between 10pm and 6am. The expectation is that any repair work would occur indoors. With regard to putting up a new building, Bodmer clarified that the reason for the change in zoning is to make it consistent with the Comprehensive Plan and that there are no plans at this time for redevelopment but that it is up to the property owner. Bodmer said that an 8' fence would be allowed under the code with a building permit but that a 6' fence is what has been negotiated to date. A parking lot cannot go right up to a fence because there are setbacks specified in the code. There are no plans to extend Footbridge Way. Todd Blomstrom confirmed that the extension of Footbridge Way is not included in the five year Capital Improvements Plan and that that the City has no funding programed or identified for the extension of Footbridge way.

Commissioner Burke asked if the fencing around this site would be similar to what is around the City's Central Maintenance Facility.

Blomstrom explained that the terrain climbs when moving from the Central Maintenance Facility towards the Cedar Isles neighborhood. Although the Central Maintenance Facility is probably one of the highest noise generators in the city, the terrain acts as a better buffer than any fence or trees could. Therefore, an 8' fence would not be significantly more beneficial than a 6' fence.

Chair Melander asked if the Central Maintenance Facility has received many complaints for noise. Blomstrom stated that he has been with the City for three years and has never received a complaint from Cedar Isles.

MOTION: Commissioner Burke moved, seconded by Commissioner Diekmann, to recommend approval of a Comprehensive Plan amendment from “LD” (Low Density Residential) to “IND” (Industrial). The motion carried 7-0.

MOTION: Commissioner Burke moved, seconded by Commissioner Alwin, to recommend approval of a rezoning from “SG” (Sand & Gravel) to “I-1” (Limited Industrial). The motion carried 7-0.

MOTION: Commissioner Burke moved, seconded by Commissioner Diekmann, to recommend approval of the preliminary plat of McNamara Addition, creating one lot, one outlot and dedicating right-of-way and easements as depicted on the preliminary plat. The motion carried 7-0.

Chair Melander stated that this is a recommendation only and will go forward to the City Council.

Cedar Isles resident Dennis Cousins asked who the recommendation goes to.

Melander said that it would go to the City Council and stated that those meetings are open to the public as well.

Community Development Director Bruce Nordquist said that it has not yet been decided which City Council meeting this item will be discussed at but advised anyone who is interested to follow along on the City’s website.

B. Eagle Ridge Business Park – Consideration of a preliminary plat, conditional use permit, and site plan review/building permit authorization to allow for construction of an 18,200 sq. ft. career development/training facility.

Associate City Planner Kathy Bodmer said that Patina Apple Valley Land, the property owner, and Lifeworks Services, the petitioner, request consideration of the following for the parcel located at the northeast corner of Upper 147th St W and Johnny Cake Ridge Rd.:

- Subdivision by preliminary plat of Eagle Ridge Business Park
- Conditional Use Permit (CUP) for outdoor storage of small buses which will provide transportation services for the building.
- Site Plan Review/Building Permit Authorization for construction of an 18,200 sq. ft. building for career development, training and light assembly.

The petitioner wishes to subdivide the 18.7-acre property owned by Patina Apple Valley Land to create one new 2.2-acre lot for development by Lifeworks Services. A 60’ right-of-way is dedicated for an internal public street that will eventually extend from Upper 147th Street W. to Johnny Cake Ridge Road. In the proposed preliminary plat, the right-of-way only extends west to the edge of Lot 1, Block 1. The petitioner agreed to design the internal public street out to Johnny Cake Ridge Road. Although only a portion of the street would be constructed with this project, the completed design will help the City to plan for and design the utilities and drainage pond that are needed to serve the overall Eagle Ridge Business Park development. Staff recommends that the petitioner dedicate right-of-way along the north property line to the northwest corner of the property.

The 2030 Comprehensive Plan guides the development of this property for “IND” (Industrial) land uses. The proposed development is consistent with the Comprehensive Plan designation. The property is currently zoned “I-1” (Limited Industrial), which allows for manufacturing, research labs, warehousing and other light industrial uses. The proposed use of the property complies with the zoning district requirements.

The site is encumbered with a 50’ pipeline easement that bisects the property, which will create challenges for how the property can be laid out. In the northeast corner there are easements dedicated for the construction of a drainage pond.

Typically the City requires a minimum right-of-way width of 80’ in a commercial/industrial development to accommodate a 44’ wide street, but because this is a smaller industrial development, that is expected to have lower traffic volumes, the petitioner is proposing a 60’ right-of-way with a 32’ wide local street. City staff supports this design, but is working with the petitioner to modify the turning radius of the curve of the street to ensure that the street can accommodate semi traffic. Staff recommends that the internal street be designated for no on-street parking. The property owner has no objection.

A 10’ drainage and utility easement is needed along the entire length of 147th Street W. at this time to accommodate private utilities. A condition of approval of the preliminary plat will be the dedication of a 10’ d/u easement adjacent the right-of-way for both Lot 1 and the Outlot. The property owner has no objections.

Planning and Natural Resources staff met with the Patina Apple Valley Land’s representative on the 18.7-acre Eagle Ridge property and reviewed the needed screening along the subdivision’s west and north property lines where it abuts residential neighborhoods. Where existing topography and native plantings provide a physical screen between the industrial and residential properties, no additional screening will be needed. However, screening of the Eagle Ridge subdivision is needed along the east property line and in a few gap locations along the north property line. The petitioner has agreed to work with City staff to ensure that the proposed screening meets the City requirements. As part of the development agreement for the final plat, the property owner will be responsible for maintaining the landscaping around the perimeter until the individual lots are sold off to new owners.

The petitioners propose to construct an 18,200 sq. ft. building on the newly created Lot 1, Block 1. Two access points are shown to the site from the new internal public street. The front of the building and main entrance will be the east side of the building while the loading dock and dumpsters will be located on the west side of the building. A combination of berms and evergreen trees will be installed along the west property line of Lot 1 to screen the west side of the building.

Parking requirements for training facilities are based upon the number of students and teachers who are expected to use the building. A total of 43 parking spaces are required; 53 spaces are provided on the site.

The Assistant City Engineer raised a concern about the entrance on the northeast corner of the site, because it is located in the middle of the curve of the public street. Engineering staff stated that the curve of the road will limit visibility at this access point, so it should only be a temporary entrance until the public street is extended west in the future. The petitioner is revising plans in accordance with the City Engineer’s request. Staff also raised concern with the southeast entrance because the setback between the curb line of Upper 147th St W and the curb line of the southeast entrance did not meet the City’s code. The petitioner has since addressed the problem and the entrance now complies with the code.

A sidewalk and/or trail will be required along both sides of the internal street, as well as along 147th Street W. in accordance with the City’s Trails and Sidewalk policies. A sidewalk connection is needed from the building to the internal public street.

The petitioners request a conditional use permit for outdoor storage of a total of 15 small buses that will provide transportation services for this building. The outdoor storage area is shown on the west side of the site. The City requires screening of outdoor storage areas which will be provided with a combination of berms and evergreen trees.

Dave Bennett, Assistant City Engineer, notes that the landscape plan shows a rain garden on the east side of the property which is not indicated on the grading plan. If a rain garden is constructed, it will need to be located completely on private property and not within the right-of-way. Dave also notes that the pond that is designed to provide drainage for the 18.7-acre development will need to be modified to make it more shallow, but sized to meet the drainage requirements of the site. The petitioner will continue to work with the City Engineer on these issues.

The exterior elevations have been modified by reducing the amount of concrete brick on the front of the building. The primary building material is now shown to be decorative block with pilasters of concrete brick used for accents. By decreasing the amount of brick on the front elevation, all four sides of the building have a more consistent exterior design. All decorative block must be integrally colored; no painting or staining of the masonry is permitted.

Screening of the mechanical units will be required at the time of application of the building permit.

The dumpster enclosure must be constructed of materials that are architecturally compatible with the principal building it serves. The exterior building materials for the proposed utility building on the site would similarly have to have architecturally compatible building materials.

The code requires that the value of the landscape materials, excluding sod and hardscape, meet or exceed 1-1/2% of the value of the construction of the building based on Means Construction Data. Lifeworks Services will need to provide the City with a nursery bid list at the time of application for the building permit to confirm that the landscape plan meets these requirements.

Bodmer also addressed the following questions from the public hearing for this item at the August 3, 2011 Planning Commission meeting:

1. Will the landscaping used for screening the outdoor storage area be sized to provide immediate screening, or would the plantings have to mature in order to provide screen?

The landscape plan is being revised to show that coniferous trees will be installed along the west property line in addition to the black hills spruce shown on the southwest corner of the site. The 6' evergreen trees in addition to the 4' berm will not provide a completely blocked view from Upper 147th Street, but will provide a softened view. A complete blocking of the view could only be accomplished by planting the trees very close together which is not recommended by Jeff Kehrer, the Natural Resources Coordinator. He states that there are many issues related to the long-term health of the trees if they are planted too closely together.

Chair Melander pointed out that if people were wondering why the City doesn't just plant fully matured trees, it is because the survival rate of transporting fully matured trees drops off significantly.

2. How will the screening areas in the buffer zone be maintained long-term between the developer and the adjacent residential area?

The property owner will be responsible for maintaining the screening area until such time as the screen areas can be incorporated into individual lot landscape plans.

3. Design of pond area.

The pond will be a wet pond that will be constructed to National Urban Runoff Program (NURP) standards. It will provide infiltration and allow sediment accumulation. The pond would be sized to contain a 100-year storm event within the pond. Should the pond overflow, it will be designed to drain overland to the southwest where it will flow onto the internal public street and run south away from the residential area.

4. Orientation of future buildings on east side of the site and impacts on adjacent residential properties.

The width of the outlot on the east side of the internal public street and south of the pipeline easement is 333'. The minimum lot width allowed in the I-1 zoning district is 100' and minimum lot area is 15,000 sq. ft., so the maximum number of lots that could be created on the east side of the Eagle Ridge Business Park development is three. The property owner states that they are expecting users to purchase approximately 2-acre lots, so it is more likely that a maximum of two parcels would be created on the east side of the internal public street.

It is likely that the buildings will be oriented so that the front of the buildings face west to the internal public street. The zoning code will require a minimum 60' building setback and 20' parking lot setback from the east property line abutting the Mistwood neighborhood. Any outdoor display and/or storage on the properties would require a conditional use permit which will require a public hearing and notification of neighbors within 350' of the subject site. Landscape screening will be installed to help provide a buffer between the Mistwood neighborhood and the Eagle Ridge Industrial Park.

MOTION: Commissioner Alwin moved, seconded by Commissioner Wasserman, to recommend approval of the subdivision by preliminary plat of Eagle Ridge Business Park, subject to the following:

- A 10' drainage and utility easement shall be dedicated along the entire plat abutting Upper 147th Street W.
- Right-of-way shall be dedicated for the internal public street, "Street A," along the east and entire north property line of Lot 1.
- The preliminary plat shall be revised to reflect the new lot configuration.
- The petitioner shall submit a design for the extension of the internal public street out to Johnny Cake Ridge Road which will be reviewed and approved by the City Engineer.
- The internal public street shall be designated for no on-street parking.
- The property owner shall agree to maintain the subdivision screening until such time as individual lots are developed adjacent to the screen areas and the screening can be incorporated into the individual site landscape plans.

The motion carried 7-0.

MOTION: Commissioner Diekmann moved, seconded by Commissioner Burke, to recommend approval of a Conditional Use Permit (CUP) to allow outdoor storage of a maximum of 15 small buses on Lot 1, Eagle Ridge Business Park, which will provide transportation services for the building, with the following conditions:

- Approval of the CUP is conditioned upon approval of the preliminary plat of Eagle Ridge Business Park.
- The CUP shall be conducted in accordance with the approved site plan and landscape plan.

- A year-round screen along the west and south property line of Lot 1 shall be maintained which screens the outdoor area from Upper 147th Street.

The motion carried 7-0

MOTION: Commissioner Diekmann moved, seconded by Commissioner Wasserman, to recommend approval of the Site Plan Review and give Building Permit Authorization for construction of an 18,200 sq. ft. building for career development, training and light assembly, on Lot 1, Eagle Ridge Business Park, with the following conditions:

- Approval of the site plan/building permit authorization is conditioned upon approval of the preliminary plat of Eagle Ridge Business Park.
- A landscape plan shall be submitted which identifies screening along the north and east property lines in the development to be reviewed and approved by the City’s Natural Resources Coordinator.
- The northeast access location shall be reviewed and approved by the City Engineer.
- Landscaping shall be installed at 1.5% of the value of the construction of the building based upon Mean Construction Data. The petitioner shall provide a nursery bid list at the time of building permit application which confirms this requirement is met.
- Roof top mechanical units shall be screened in accordance with City Code requirements.
- A sidewalk connection shall be provided from the building to the public sidewalk on the internal public street.
- The dumpster enclosure and accessory building shall be constructed of materials that are architecturally compatible with the principal building they serve.

The motion carried 7-0.

7. **OTHER BUSINESS**

A. American Institute of Architects – Sustainable Design Assessment Team Update.

Community Development Director Bruce Nordquist said that he wanted to share some information with the Planning Commission regarding the recent AIA-SDAT process that took place July 20-22. Access to the slide show presentation as well as video from the presentation can be accessed through the City’s website.

Nordquist said that throughout the process, the team of consultants compared Cedar Avenue to a river. It manages a large amount of traffic but can be difficult to establish a sense of place. However, the opportunity to create unique villages just off the corridor is promising.

All of the consultants agreed that autos define Apple Valley’s downtown and that parking is what is driving land use. The City, however, has heard from numerous residents that they want to be able to bike and walk. Therefore, the recommendations put forth call for mixed use districts that allow for more walking and biking but also leverage the transit available.

The experts emphasized the importance of building on the City’s assets and noted that Apple Valley has a strong sense of community. Nordquist said that part of leveraging our opportunities is to expand jobs in the downtown. As forecasted in the 2030 Comprehensive Plan, the City expects about 75% of job growth to come from the industrial areas but that 25% of jobs will be in the downtown. There is also a new consciousness of growing with sustainability and green infrastructure in mind because it is good business, saves money, and raises energy efficiency.

The consultants warned that if we do nothing, we may lose our market position and remain a bedroom community. They also said that retail would be cannibalized by others, we would begin losing millennials, and the population would get older. This requires new housing and shopping choices and a more walkable and bikable environment.

The consultants came up with ten principals which were the framework for their recommendations. They were as follows:

1. Take a long term view – Invest in the City’s future.
2. Be willing to say no – Certain types of development may not align with the City’s long term goals.
3. Create an active center – Create a destination area where people want to spend time.
4. Balance the automobile – Provide a variety of transportation options.
5. Be sustainable and equitable – Be multi-generational by providing choices for housing, shopping and transportation.
6. Understand, influence, and shape market forces– The City should actively try to attract the type of development it seeks.
7. Build communities, not projects – Create land development that is connected.
8. Public leadership – The City must continue its leadership in building the downtown.
9. Remove barriers – Connect bike routes and improve pedestrian access.
10. Celebrate success – Make the residents aware of accomplishments.

The consultants looked at a variety of areas in Apple Valley with the potential to be the center of the downtown. Although Cedar Avenue and County Road 42 are barriers, this intersection would currently be defined as the City center. The consultants agreed that the areas that provided the most opportunities were the areas defined as Cedar Village East and Central village. This was because they contain a new transit station, vacant land, parking fields, and successful businesses.

With 21 banks in Apple Valley, public/private financing should be explored such as a Community Development Financial Institution to help the City develop more intensely in the southeast quadrant. Development focus should also be on new investment.

The City is still about a month away from receiving the final report from the consultants. What’s next is to use the grant the City has been awarded to conduct a zoning and design study of priority areas. The City also wants to share the SDAT assessment and vision with interested contacts and community groups, as well as consider a collaborative City/business group to gauge interest in financial partnerships.

City Planner Tom Lovelace said that an Implementation Committee will also be formed to look at the final report, set objectives, and figure out how to accomplish those objectives in the future. He said that the team emphasized that this is not a five or ten year project but rather a 30 year project.

Chair Melander said that as a participant in this process he was prepared to be disappointed. He said that he expected the consultants to provide a standard vision and recommendations that have worked in the past in other cities. However, he was pleased to observe a substantial effort on the part of the consultants to understand Apple Valley and provide the City with a unique proposal. He was also pleased with the amount of public participation in the process as it shows how many people care about Apple Valley.

B. Quasi-Judicial Actions Related to Land Use.

City Attorney Sharron Hills stated that in April the Planning Commission was informed of a pending court of appeals case involving the City of Minneapolis where an applicant was denied a conditional use permit. The District Court found that the city denied the applicant due process because of comments that were made by city council members outside of the council chambers about the proposal. Although the Court of

Appeals did not agree with the decision of the District Court, it did agree on the result. The court of appeals found the council members' actions before an actual hearing resulted in an arbitrary and capricious decision.

Hills said that although the Planning Commission members are not policy makers, they do recommend and hold the public hearing. The hearing needs to be impartial, thus, discussion of applications outside the council chambers is not appropriate because it takes away from what is going on inside the hearing.

Chair Melander asked Hills to confirm that Planning Commission members are not allowed to discuss pending issues until it has had its public hearing.

Hills confirmed the statement, advising members not to discuss their opinions outside the chamber because it doesn't allow the applicant to present their case if commissioners have already formed an opinion.

C. Review of upcoming schedule and other updates.

Community Development Director Bruce Nordquist said that the next Planning Commission meeting is Wednesday, September 7, at 7pm. The next City Council regular scheduled meeting is Thursday, August 25, at 8p.m. There will be another City Council meeting on Tuesday September 6th with a special informal meeting at 6 p.m. and a special regular meeting at 8pm.

MOTION: Commissioner Alwin moved, seconded by Commissioner Scanlan, to adjourn the meeting at 8:47 p.m. The motion carried 7-0.

Respectfully Submitted,

Addison Lewis, Planning Department