

CITY OF APPLE VALLEY  
PLANNING COMMISSION MINUTES  
September 7, 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

Members Absent: Keith Diekmann

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

**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 Burke moved, seconded by Commissioner Alwin, to approve the agenda. The motion carried 6-0

**3. APPROVAL OF THE MINUTES AUGUST 17, 2011**

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

MOTION: Commissioner Burke moved, seconded by Commissioner Alwin, to recommend approval of the minutes of the August 17, 2011 meeting. The motion carried 6-0.

**4. CONSENT ITEMS**

-NONE-

**5. PUBLIC HEARINGS**

-NONE-

## 6. LAND USE/ACTION ITEMS

### A. Spoon Restaurant Outdoor Dining Area – Consideration of a proposed 810 sq. ft. outdoor dining area for an existing restaurant.

Associate City Planner Margaret Dykes stated that the owners of Spoon Restaurant, 14871 Granada Ave., are requesting site plan/building permit authorization review for an outdoor patio dining area. There is an existing unused 15' x 54' (810 sq. ft.) asphalt pad located on the south side of the 5,750 sq. ft. restaurant. The owners would like to convert it to an outdoor patio dining area. The Code states outdoor dining areas are permitted accessory uses in conjunction with a Class I or III restaurant, but site plan review of the outdoor dining area is required.

The site plan indicates the asphalt pad is 22' x 54 feet, when, in fact, it is only 15' x 54'. The owners have stated they do not want to add additional asphalt and that the measurement shown on the site plan was an error. The site plan shows 10 tables and 40 seats, and the owners are proposing installing 4'-high aluminum fencing along the south, east, and west sides of the patio. Access to the outdoor dining area will be from the restaurant via a door located along the south side of the building and there will be gates on the west and north sides of the dining area, which will also serve as fire exits. The fire exits lead to a parking area on the west side of the building, and to the sidewalk on the east side of the building. The Building Official has stated that a building permit review is required to ensure that all egress points comply with State Building Code requirements.

The asphalt pad will be refinished to improve its appearance and create a smoother surface. The owners intend to use hanging baskets and planters to soften the area. No existing landscaping will be removed for the dining area, and, again, the owners have stated that no additional impervious surface will be added.

Dykes said the Code requires 1 parking space for each 2.5 seats in a Class I restaurant and 1 space for each 5 outdoor seat after the first 10 seats. The 40 outdoor seats require 6 parking spaces. The restaurant seats up to 230 people, which requires 98 spaces, as well as 98 spaces for the remaining retail tenants (196 total). There are 142 parking spaces in the Granada Center lot. Though there is shortage of parking spaces, there is an approved shared parking plan for Granada Shopping Center that allows the shortage to occur. This is because the types of users in the Center stagger their parking needs. The City has not received any complaints about parking shortages on the site.

The outdoor dining area requires two Sewer Availability Charge (SAC) units per state building code requirements. The SAC charges must be paid to the Metropolitan Council and the City prior to the use of the outdoor patio dining area.

Dykes asked if there were any questions.

Commissioner Scanlan asked if the fence enclosing the dining area would line up with the building or if it would extend to the parking lot.

Dykes stated that the fence would extend all the way to the parking lot.

Scanlan expressed concern over the aesthetics of the fence being up along the parking lot, as well as the issue of people who park next to the fence having to walk back out into the parking area rather than being able to easily access the sidewalk.. The issue is even more concerning given that the space in front of the fence is a handicapped space.

Commissioner Alwin also expressed concern over covering the walking area and pointed out that the handicap entrance to the sidewalk would not be accessible since a fence would be blocking it.

Dykes said that the project must meet all handicap accessibility requirements and agreed that reducing the patio to allow for a sidewalk would be necessary. Therefore, the dimensions of the patio could be reduced to 15' x 50'.

The petitioners stated they had no problem with the change.

Commissioner Schindler asked where the west side of the patio would exit to and how far the fence would extend.

Dykes said that it empties into an ally between the Granada Center building and Valley Bike & Ski and said that the fence would align with the west edge of the building.

Hearing no further comments Chair Melander called for a motion.

MOTION: Commissioner Alwin moved, seconded by Commissioner Wasserman, to recommend approval of the outdoor patio dining area at Spoon Restaurant, 14871 Granada Avenue, in accordance with the plans dated September 2, 2011, subject to all applicable City codes and standards, and the following conditions:

1. The outdoor dining area shall be no larger than 15' x 50' (810 sq. ft.), and shall be located on the south side of the building.
2. The owners shall install a minimum 4'-high maintenance-free aluminum fence on the south, east, and west sides of the patio.
3. The owner shall provide proof of payment of all necessary SAC and building permit fees prior to use of the patio area.
4. The outdoor dining area occupancy shall be posted in accordance with applicable City fire codes.
5. Sidewalks from the fire exits shall extend to the parking lot and shall meet all applicable accessibility requirements.
6. Signage shall be posted stating that the patio gates shall remain unlocked during business hours.
7. The outdoor dining area shall meet all handicap accessibility requirements.
8. There shall be no outdoor storage of any materials other than the tables and chairs used for patio dining within the patio area.

The motion carried 6-0.

## 7. OTHER BUSINESS

### A. Heartbeat Dance Studio Sketch Plan

Associate City Planner Kathy Bodmer said that Deborah Lysholm, owner of Heartbeat Dance Studio at 7661-145<sup>th</sup> Street West, wishes to construct a 1,200 sq. ft. addition onto her existing 5,300 sq. ft. building. In connection with the building addition, Ms. Lysholm requests a Sketch Plan Review to receive feedback from the Planning Commission for the following actions:

- Zoning code text amendment to allow the following:
  - Corrugated steel as an allowable exterior building material
  - An apartment to be constructed in connection with a limited business use
- Conditional Use Permit (CUP) for alternate building materials.

The property is guided C for commercial use in the Comprehensive Plan and is zoned LB for Limited Business. The proposed addition would be constructed on the west side of the existing building and would be built on top of what is currently part of the parking lot. Therefore, no impervious surface would be added. The addition to the studio would provide space for voice lessons, acting lessons, and a quieter space for dancing lessons for autistic children.

The property owner wishes to construct the exterior of the addition with black corrugated metal panels. The zoning code has the following requirement concerning exterior building materials:

Commercial buildings shall have a vertical exposed exterior finish of 100% non-combustible, non-degradable and maintenance-free construction materials (such as face brick or natural stone)**but excluding such construction materials as sheet or corrugated aluminum, iron,** or concrete block of any kind or similar.

A provision in the Zoning Code allows a property owner to apply for a conditional use permit for alternate building materials in the “LB” (Limited Business) zoning district when the following three conditions are met:

1. The proposed materials represent the same or similar materials used on at least 66.7% of the existing buildings adjacent to the site;
2. The proposed materials are demonstrated to be of comparable grade and quality as those otherwise required; and
3. **Under no circumstance shall sheet or corrugated** aluminum, iron, **steel**, asbestos, sheet plywood, plain or painted concrete block or similar **materials be used**. Any decorative concrete block shall be colored only by means of a pigment impregnated throughout the entire block.

The request to construct the exterior of the addition with corrugated metal would not meet the performance standards listed above. None of the adjacent buildings have a metal exterior. Secondly, the code specifically identifies metal as a prohibited exterior building material. Metal is not an allowable exterior

building material in any zoning district because metal buildings are typically a lower cost and lower quality structure.

In order to allow a corrugated metal panel exterior, the zoning code would need to be amended to allow corrugated metal panels as a choice among alternate building materials. In the alternative, the City might explore an exemption in the Code to allow for artistic expression. In the past, the City Attorney has raised concerns about creating exemptions for “artistic expression” because it would be difficult to evaluate such a request in an objective manner. It would be difficult to establish objective criteria that would help guide whether or not the building design would meet the criteria for an acceptable “artistic” design.

When the Heartbeat Dance Studio was approved in 1996, the owner received a conditional use permit to allow the exterior of the building to be constructed with burnished concrete block, cast stone concrete panels and a standing seam metal roof. The building was designed to have a minimalist industrial-type appearance. The owner states that the steel exterior will continue this theme. However, the zoning code specifically prohibits steel for an exterior building material, so the code would need to be amended to allow a steel exterior.

The property owner wishes to amend the “LB” (Limited Business) zoning district to allow an apartment unit to be constructed above the studio addition. The studio addition would be two stories with the dance studio on the main level and the living unit on the second story.

At this time, the LB zoning district has no provision for construction of a living unit as is being proposed. However, the “RB” (Retail Business) zoning district currently allows multiple family units “when integrated into a multi-use structure” by CUP. This provision in the RB zone would allow the creation of a mixed-use residential above retail commercial structure similar to some of the proposed uses in the Central Village area. The code language in the RB zone calls for “units” which implies more than one unit integrated into the multi-use structure.

The LB zoning district allows professional offices and professional service uses. Rectories or parsonages, as part of a “religious center,” would be allowed in the LB zoning district. In addition, it would not be uncommon for a funeral home, which is allowed by CUP in the LB zone, to have an apartment unit in the building as part of its operation. The area of the proposed dance studio is a transition area from the commercial core of the City to the residential area to the north.

In addition to the code issues, there are a few other items to be addressed regarding this project. The property abuts a drainage pond and there are some storm water and drainage issues that would have to be worked out between the City and property owner. There is also an issue with parking because the proposed addition would remove parking spaces but would also add additional demand for more parking.

Bodmer stated that because it is a sketch plan, no official action is needed and that the petitioner is only requesting feedback from the Commission.

Bodmer then asked if there were any questions.

Chair Melander asked if the addition would remove enough parking spaces to cause the building to no longer be compliant with parking regulations.

Bodmer said that the property owner has estimated that only three parking spaces would be lost but said that a calculation has not been done to see what the additional demand would be. Staff would have to do such a calculation to know whether or not the building would still be in compliance.

Commissioner Wasserman asked if there was any reason that corrugated steel was not allowed in the Code.

Bodmer said that the City decided long ago to focus on brick and stucco for the downtown.

The architect for this project, Barry Petit, said that probably 99% of the customers of the studio are kids who get dropped off and that the parking lot is only full during a few recitals that take place throughout the year. He added that the purpose is not to get more people into the building but to have more class rooms with fewer students. The intent is also to add special class rooms that are designed for more on one-on-one lessons, as well as for children with autism.

Pettit said that this project provides an interesting opportunity because much of the current staff is already trained to work with autistic children. The owner has indicated that she would like to expand this part of her business but kids with autism require quieter rooms to allow them to focus.

Pettit said that the owner spends 90% of her time at the studio and that the proposed apartment would be approximately 900 sq. ft. He said that it could be easily transformed back into something else, like office space, if the building were to be sold in the future.

He urged the Commission to consider the live-work concept as it is a critical factor to sustainability.

With regard to the materials proposed to construct the addition, Pettit said that they chose corrugated steel to give off an artistic impression and to be consistent with the type of activity going on in the dance studio. He also said that because of its color and simplicity, the addition would be very discrete.

Commissioner Alwin was impressed by the proposed building but expressed concern that allowing the building to go through with corrugated steel would require a code amendment and that it would open the door for other projects which the code is currently intended to prevent.

Commissioner Scanlan said he also appreciates what the architect is trying to do architecturally but shared Commissioner Alwin's concern about opening the door for future projects. He asked if any other materials had been considered that would comply with the code but still allow for artistic expression.

Petit said that given the requirements, it would be difficult to find another material that would have the same effect. He believes the proposed addition provides an opportunity to do something different and urged the council to decide whether it is the material or the design that is the problem.

Commissioner Wasserman asked why specifically steel had to be used to achieve what the architect is trying to do.

Petit said that steel was chosen from a construction standpoint.

Commissioner Wasserman asked if this was because of a cost differential.

Petit said it was.

Commissioner Burke said that he liked the proposal and said that when this part of the code was written, it was probably to prevent pole barns and said that if there was a way to tighten up the description, he would be in favor of it.

Commissioner Schindler said that he agrees with Petit that poor design is often the real problem rather than the material itself. However, once certain materials are allowed to be used, there is no way to prevent poor design and the developers who are just trying to save money.

Commissioner Scanlan asked how the steel would be attached to the building. His concern was from an aesthetic standpoint.

Petit said that there are some options so that fasteners would not be visible and that the attachment would be seamless.

Chair Melander said that he is also concerned about others who would take advantage of a code change to allow for corrugated steel. He doubts that language could be written that would only allow for aesthetically appealing buildings and that it would create more problems down the road. He also agreed with Commissioner Scanlan and Commissioner Wasserman that there are probably other materials that could give the same effect architecturally.

Commissioner Alwin said he also is skeptical that language could be created that would allow corrugated steel to be used for this purpose while still preventing poor design.

Chair Melander moved the conversation towards the living quarters above the studio.

Commissioner Alwin said that he thought the idea for an apartment was encouraging and would be consistent with the comp plan in terms of walkability and sustainability. However, he thought the Commission should consider what effects this decision could have in terms of opening up this option to other property owners.

Commissioner Scanlan agreed and thought it would be worth it to work through the code concerns.

Commissioner Schindler raised concern over an apartment being located next to a KinderCare and didn't think it was an appropriate location for residential.

Commissioner Wasserman addressed the benefits of mixed use in other communities and said that this idea can go a long way to improve walkability and sustainability. He said he would be willing to take a good look at the idea but agreed that it would be opening the door for other property owners to do the same.

Commissioner Schindler said that he would have no issue with the apartment if it were not the only one in the area. However, he acknowledged that it would provide more safety.

Chair Melander said that he would like to support the idea and that it goes along with what the City has been trying to do.

Petit added that this project has the opportunity to inject excitement into this pocket of the City and said that there always has to be a first step for any change or rethinking to occur.

Deborah Lysholm, the property owner, said that she started her business because she enjoys children and would not mind the daycare next door. She added that the apartment would be a convenience for her because she is often at her studio until one or two in the morning.

**B. Review of upcoming schedule and other updates**

Community Development Director Bruce Nordquist stated that the next Planning Commission meeting will take place Wednesday, September 21, 2011 at 7pm.

**8. ADJOURNMENT**

Hearing no further comments, Chair Melander called for a motion to adjourn.

MOTION: Commissioner Alwin moved, seconded by Commissioner Schindler, to adjourn the meeting at 8:03pm. The motion carried 6-0.

Respectfully Submitted,

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Addison Lewis, Planning Department

Approved by the Apple Valley Planning Commission on 10-5-11.