

CITY OF APPLE VALLEY
PLANNING COMMISSION MINUTES
OCTOBER 19, 2011

1. CALL TO ORDER

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

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

Members Absent: Tom Melander and Brian Wasserman.

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

2. APPROVAL OF AGENDA

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

MOTION: Commissioner Diekmann moved, seconded by Commissioner Scanlan, approving the agenda for today's meeting as written. Ayes - 5 - Nays - 0.

3. APPROVAL OF MINUTES OF OCTOBER 5, 2011

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

MOTION: Commissioner Alwin moved, seconded by Commissioner Diekmann, approving the minutes of the meeting of September 7, 2011, as written. Ayes - 5 - Nays - 0.

4. CONSENT ITEMS

--NONE--

5. PUBLIC HEARINGS

A. Cobblestone Lake South Shore 6th Addition – Consideration of subdivision of 9.14 acres for a one (1) single-family and ten (10) two-family dwelling units on 2.04 acres and one (1) outlot on 7.1 acres that will be dedicated for public park purposes, and site plan/building permit authorization for the 11 dwelling units. **(PC11-34-SB)**

Vice Chair Burke opened the public hearing at 7:02 p.m.

Mr. Lovelace stated that the applicant, South Shore Development, is requesting approval for subdivision of approximately 9.14 acres into 12 residential lots and one (1) outlot and site

plan/building authorization to allow for construction of one (1) single-family and 10 twin-home dwelling units.

The petitioner is proposing to plat a 2.04-acre parcel into 12 lots for the purpose of constructing one (1) single-family and 10 twin twin-home townhomes lots, with Lot 12 to be used for common open area for the residential development. The remainder of the property (7.1 acres) within the proposed preliminary plat will be platted as an outlot (Outlot A) and will be dedicated to the City for public park purposes.

Also being requested is a site plan/building permit authorization to allow for the construction of one (1) single-family and five (5) twin-home residential buildings. Each twin-home unit will be constructed on a 3,605 sq. ft. lot with the single-family dwelling on a 4,010 sq. ft. lot.

Outlot A and approximately .12 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 .12 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 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 and is recommending that the park, sidewalk, trail, drainage and utility and temporary construction easement remain or be reestablished over the .5 acres of property.

He stated staff is recommending that the outside of Eastbend Way 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. Non - surmountable curb is currently installed along Cobblestone Parkway. To provide for driveway access for Lots 10 and 11 section of this curb will need to be removed and replaced with surmountable curb in front of the two lots.

The existing sanitary sewer line and watermain located in Eastbend Way will be extended to provide individual access to these utilities for the dwelling units constructed on Lots 1-4. These two utility line extensions will be public and will be owned and maintain by the City.

The Assistant City Engineer is recommending that the grades along the northeast corner of the site should be adjusted to account for the grades on the lot located directly east of the site (Lot 1, Block 1, Cobblestone Lake South Shore Addition) in accordance with a grading plan dated April 13, 2009, submitted by Westwood Professional Services. Also, the low floor elevations for Lots 10 and 11 shall be raised to 921.5. Because the plan is technical, a detached townhouse development with a large common area, a landscape plan shall be submitted and approved by the City prior to issuance of a building permit. The plan should include the size, location, quantity, and species of all plant materials and the method of maintenance. A landscape bid list or other form of documentation which verifies that the minimum cost of live landscape materials, excluding sod, equals 2 -1/2% of

the estimated building construction cost based on current Means construction data shall be submitted with the plan.

Mr. Lovelace stated that the Planning Commission visited a project on this site in early 2010 and this project is similar. Staff is proposing that a decision be made at this meeting and move forward to the City Council.

Acting Chair Burke asked for any comments or questions.

Commissioner Schindler inquired as to the availability of parking.

Mr. Lovelace stated no parking on one side of the street is allowed on certain streets because the width of the streets is less than the typical street width in other parts of the City's residential community. The townhomes have double garages which allows for two parking spaces on their driveways. There is recessed parking along Cobblestone Lake Parkway S. that would allow for on street parking for the units in the southern area.

Commissioner Scanlan stated there are four lots across the street and questioned if parking is going to be very limited. He asked what the maximum width of the driveways could be. He expressed concerned that in the future when the four lots across the street are developed, will that developer then want to mimic the driveway widths in this project. He questioned if limiting the width of the driveways is something we want to address to maximize on street parking.

Mr. Lovelace answered that the Commission could certainly limit the width of the driveway if that was their choice.

Commissioner Scanlan asked about units 10 and 11 by the roundabout. He stated it looks like the units are moving closer to the roundabout than previously discussed last year.

Mr. Lovelace presented diagrams and stated the traffic consultant and fire marshal both reviewed the plans and did not have a concern. He said it is only a concern for the two units as they will have access from only one direction since there will not be a curbcut in the median of Cobblestone Lake Parkway S. directly in front of the units.

Commissioner Scanlan stated the two sketches look very similar and asked if there is a proposed width for twin driveways. He asked if 14 feet would be too narrow for a driveway and what would be appropriate.

Jacob Fick, Tradition Development, addressed the concern. He stated there is no parking on that side of the street so if it was for aesthetics only, the minimum driveway width could be considered.

Commissioner Diekmann questioned as to when the 14-foot wide driveway was established and if there was another reason besides on street parking. He asked what the width of the driveway is currently.

Mr. Lovelace stated it was for aesthetics so as not to give the driveway appearance of being overpowering and to maintain the on street parking.

Mr. Fick answered that assuming each garage door is 16 feet wide and allowing for a foot or two on each side would give about 34 to 36 feet wide for a twin driveway. If the Commission would prefer a narrower driveway, a 14-foot wide garage door could be considered.

Commissioner Scanlan asked, regarding the single family townhome, how much that unit is protruding toward the walkway. He asked for a comparison to the previous proposal from the year earlier.

Mr. Lovelace stated that from the diagrams it appears to possibly be about a foot if not the same.

Mr. Fick stated he feels it could be less than previous drawings.

Acting Chair Burke hearing no further comments closed the public hearing at 7:31 p.m.

Commissioner Scanlan stated the width of the driveway should be clarified as well as building materials before sending this item to the City Council for approval.

Commissioner Alwin said he supported that as well.

Mike Soule, builder for D.R. Horton Homes, answered the question regarding building materials. He stated they are planning to use a product "LP SmartSide" similar to Hardi Plank but it is made by a different manufacturer. They will be in compliance with the building code. He said they are willing to make the driveways narrower but is concerned that if they make the driveway too narrow it will hinder the homeowner. They would like to avoid the situation of the homeowner driving over the grass or landscaping.

Commissioner Diekmann asked to have the driveway issue resolved this evening.

Mr. Lovelace stated there could be two suggestions. The maximum driveway width within the right-of-way is 30 feet. Another option would be to approve a driveway width of 28 feet which would be consistent with the other plans in the planned development.

Commissioner Scanlan stated he prefers the 28-foot driveway.

MOTION: Commissioner Scanlan moved, seconded by Commissioner Diekmann, to recommend approval of the Cobblestone Lake South Shore 6th Addition preliminary plat subject to the following:

- Approval of the vacation of the park, sidewalk, trail, drainage and utility and temporary construction easement over Areas D and L as indicated on Exhibit D of the recorded Park, Sidewalk, Trail, Drainage and Utility and Temporary Construction Easement document of the recorded easement document, at the time of approval of the Cobblestone Lake South Shore 6th Addition final plat.
- A park sidewalk, trail and drainage and utility easement shall be reestablished over that part of the property identified in Area L, as indicated on Exhibit D of the recorded Park, Sidewalk, Trail, Drainage and Utility and Temporary

Construction Easement document, not included in Outlot A of the Cobblestone Lake South Shore 6th Addition preliminary plat.

- The outside lane of Eastbend Way shall be designated “No Parking” and properly signed.

Ayes - 5 - Nays - 0.

MOTION: Commissioner Scanlan moved, seconded by Commissioner Diekmann, to recommend approval of site plan/building permit authorization to allow for the construction of one (1) single-family and 10 twin-home townhome dwelling units on Lots 1-11, Block 1, Cobblestone Lake South Shore 6th Addition, according to the preliminary plat, subject to the following:

- Issuance of a Building permit shall be contingent upon the revisions to the site grading in accordance with the Assistant City Engineer’s recommendations.
- A landscape plan shall be submitted and approved by the City prior to issuance of a building permit.
- Issuance of a building permit shall be contingent upon approval and recording of the Cobblestone Lake South Shore 6th Addition final plat.
- Issuance of a building permit shall be contingent upon approval of the vacation of the park, sidewalk, trail, drainage and utility and temporary construction easement over Areas D and L as indicated on Exhibit D of the recorded Park, Sidewalk, Trail, Drainage and Utility and Temporary Construction Easement document.
- Issuance of a building permit shall be contingent upon the reestablishment of the park, sidewalk, trail, and drainage and utility easement over that part of the property identified in Area L, as indicated on Exhibit D of the recorded Park, Sidewalk, Trail, Drainage and Utility and Temporary Construction Easement document, not included in Outlot A of the Cobblestone Lake South Shore 6th Addition preliminary plat.
- Driveway width within the right-of-way shall not exceed 28 feet.

Ayes - 5 - Nays - 0.

B. Floodplain Control Ordinance Amendments – Consideration of amendments to Chapter 156 of the City Code that regulates floodplain control in the City. **(PC06-03-Misc.)**

Vice Chair Burke opened the public hearing at 7:45 p.m.

Mr. Lovelace stated that in 2006, the City of Apple Valley was approved for eligibility in the National Flood Insurance Program (NFIP). The NFIP is a federal program enabling property owners in participating communities such as ours to purchase insurance protection against losses from flooding. This insurance is designed to provide an alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents by floods. At the time of this approval, no flood-prone areas were designated by Federal Emergency Management Agency (FEMA).

In 2003, prior to the City's eligibility approval, Dakota County partnered with FEMA to complete a new county-wide floodplain study. The study was funded with more than \$500,000 in federal grants, which produced new digital Flood Insurance Rate Maps (FIRM'S) and a flood insurance study as part of the NFIP. In June of this year, FEMA approved the new FIRM's and insurance study. These changes included the identification of two areas in Apple Valley designated in zone AE, which identified as areas having a 1 percent chance of experiencing a flood each year. These areas include up to 42 residential properties located directly adjacent to Alimagnet and Keller lakes in the western part of the City. The remainder of the City is located in zone X, which is an area outside the 500-year flood, which means it has a less than 0.2 percent chance to flood annually. These areas are sometimes referred to as unmapped areas because FEMA does not provide FIRM panels for those parts of the City.

The new study also requires that the City adopt the new maps and make the necessary amendments to the existing ordinance consistent with the study's findings by December 2, 2011. Attached is a copy of the amended ordinance which addresses the study's findings and the changes to the FIRM's in the City. The amendments have been prepared by the City Attorney with the assistance of the Minnesota Department of Natural Resources.

He stated staff is recommending approval of the amendments to Chapter 156 - Floodplain Control of the Apple Valley City Code of Ordinances.

Commissioner Diekmann questioned if the Compliance Section, 156.04, pertains only to the lots next to the lakes.

Mr. Lovelace said yes.

Commissioner Diekmann asked what the property owners would be burdened with to come into full compliance.

Mr. Lovelace said it would be anything that would be in Zone AE. The City would have to look at the 100-year elevations related to the two lakes and having to maintain the proper height or elevation outside of the flood zone area. The setback requirements would probably make it so the property owner would not come within that Zone AE. Typically the building setback within the two bodies of water is a minimum of 75 feet.

Ms. Hills stated that buildings that exist today would not be affected. She said it would be any new construction in the future. Owners will not have to do anything to meet the requirements of this ordinance.

Commissioner Diekmann questioned if an owner could not put an addition on a house without coming into full compliance.

Ms. Hills stated the addition would be separate. Also this addition would need to be within the flood fringe. The flood fringe does not extend up to the homeowner's house. That compliance is general to all the floodplain control ordinances throughout our communities in Dakota County.

Commissioner Scanlan inquired if the property owners in these floodplain identified areas will be

notified directly so this change does not become a surprise to them.

Mr. Lovelace stated the City did not inform the residents for the public hearing because it was a general notice but will intent to notify the residents that this could occur on their property so they can move forward with an application process.

Commissioner Schindler asked if the 75-foot setback would be in farther than the high water mark.

Mr. Lovelace stated that the 75-foot setback from the two lakes could very well keep any structure out of the flood fringe or flood prone areas.

Ms. Hills stated that the 75-foot setback is a shoreland zoning regulation which is under the DNR public waters for water quality purposes. She said this is different in respects to the floodplain. They are two separate items but could overlap.

Hearing no further comments Vice Chair Burke closed the public hearing at 8:09 p.m. and stated that although it is the policy of the Planning Commission to not take action on an item the night of it s public hearing, staff is requesting a motion this evening to meet the deadline of December 2, 2011

MOTION: Commissioner Alwin moved, seconded by Commissioner Scanlan, to recommend approval of the amendments to Chapter 156 – Floodplain Control of the Apple Valley City Code of Ordinances. Ayes - 5 - Nays - 0.

6. LAND USE/ACTION ITEMS

A. Wilson Front Yard Setback Variance – Consider a variance to allow a garage addition to encroach 6 feet into 30-foot front yard setback. **(PC11-37-V)**

Ms. Bodmer stated that James Barton, Design Build Inc., on behalf of property owners Richard and Marcia Wilson, requests a variance to the 30' front yard setback requirement to construct a 6' x 20' addition onto the front of the garage at 8531 – 136th Court. The variance would allow the garage to be located 24' from the front property line.

The Wilson home was constructed in 1980 and has a three-stall attached garage. The petitioner states that a previous property owner constructed a mudroom in the back of the garage which took away five feet of depth from two of the parking stalls in the garage. As a result, the current owners are unable to park their cars inside the garage at this time. The Wilsons request the variance for the 6' x 20' addition to extend the 2-stall portion of the garage so that they will be able to park their cars inside the garage while maintaining the mudroom area.

Because the mudroom was constructed without a building permit, staff cannot confirm who is responsible for the project. However, the current owners will be responsible for ensuring that the mudroom complies with all building and fire code requirements.

The garage addition is one element of a larger construction/renovation project of the Wilson home that includes a 14' x 8' (112 sq. ft.) addition on the northeast corner of the main level, a 20' x 28'

(560 sq. ft.) master bedroom suite above the garage, and generally updating the exterior design of the home.

"Practical difficulties," as used in connection with the granting of the variance, is defined as:

- The applicant proposes to use the property in a reasonable manner not permitted by the zoning provisions of the code;
- The plight of the applicant is due to circumstances unique to the property not created by the applicant; and
- The variance, if granted, will not alter the essential character of the locality.
- Economic considerations alone do not constitute practical difficulties.

In order to grant a variance, the City considers the following factors to determine whether the applicant established that there are practical difficulties in complying with the provision(s) of this Chapter:

- Special conditions apply to the structure or land in question that are particular to the property and do not apply generally to other land or structures in the district or vicinity in which the land is located;
- The granting of the proposed variance will not be contrary to the intent of this chapter;
- The special conditions or circumstances do not result from the actions of the owner/ applicant;
- The granting of the variance will not merely serve as a convenience to the applicant, but is necessary to alleviate practical difficulties in complying with the zoning provisions of this Code; and
- The variance requested is the minimum variance necessary to alleviate the practical difficulty.

In relation to this request, staff offers the following findings:

1. The existing parking stalls in the Wilson garage range from 17' to 19' long as a result of the construction of the mudroom inside the garage; garages are typically a minimum of 20' deep.
2. Having sufficient depth to park vehicles inside the garage is a reasonable use of the property.
3. The garage addition, along with the main floor addition, the master suite addition, and the exterior renovations, will help to update the appearance of the exterior of the home.
4. The City's 2030 Comprehensive Plan supports reinvestment in the existing housing stock to encourage and foster vitality in existing neighborhoods.
5. Parking vehicles inside a garage increases parking and vehicle storage options.

Staff recommends that the Planning Commission recommend approval of a 6' variance from the 30' front setback variance to allow construction of a 6' x 20' garage addition to be located 24' from the front property line, in compliance with all City Ordinance and design standards, subject to the condition that the petitioners shall obtain all necessary building permits for the mudroom and complete any corrections necessary to bring the home into compliance with the Minnesota State Residential Code.

Commissioner Alwin inquired how much parking length will be left of the driveway after the construction.

Ms. Bodmer stated the width at the boulevard is 13 feet and the 6' encroachment will leave 24 feet which would be a total of 37 feet on the driveway. There is not a sidewalk in this development so the homeowner will have full use of the driveway length.

James Barton, Design Build, Inc., presented updated home designs compared with the designs from 30 years ago. He stated the homeowner is willing to put the money into their home in this market to do an exterior renovation.

Commissioner Alwin stated he is in support of this renovation. He agrees with the reinvesting and upgrading of the house and that it is good for the neighborhood and good for the City. He wanted to emphasize that the Commission is not rewarding somebody's malfeasance for creating the mudroom. He stated he could support this project in the context of overall improvements.

MOTION: Commissioner Alwin moved, seconded by Commissioner Scanlan, to recommend approval of a 6' variance from the 30' front setback variance to allow construction of a 6' x 20' garage addition to be located 24' from the front property line, in compliance with all City Ordinance and design standards, subject to the following condition: The petitioners shall obtain all necessary building permits for the mudroom and complete any corrections necessary to bring the home into compliance with the Minnesota State Residential Code. Ayes - 5 - Nays - 0.

7. OTHER BUSINESS

A. Review of the Upcoming Schedule and other Updates.

Community Development Director Bruce Nordquist stated that the next Planning Commission meeting will take place Wednesday, November 16, 2011 at 7:00 p.m.

8. ADJOURNMENT

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

MOTION: Commissioner Alwin moved, seconded by Commissioner Schindler, to adjourn the meeting at 8:26 p.m. Ayes - 5 - Nays - 0.

Respectfully Submitted,

Joan Murphy, Planning Department Assistant

Approved by the Apple Valley Planning Commission on _____.