

CITY OF APPLE VALLEY  
PLANNING COMMISSION MINUTES  
FEBRUARY 1, 2012

**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, Keith Diekmann, Paul Scanlan, David Schindler and Brian Wasserman.

Members Absent: Ken Alwin.

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

**2. APPROVAL OF AGENDA**

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

MOTION: Commissioner Diekmann moved, seconded by Commissioner Burke, approving the agenda. Ayes - 6 - Nays - 0.

**3. A. APPROVAL OF MINUTES OF DECEMBER 21, 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 Scanlan, approving the minutes of the meeting of December 21, 2011, as written. Ayes - 6 - Nays - 0.

**4. CONSENT ITEMS**

--NONE--

**5. PUBLIC HEARINGS**

--NONE--

**6. LAND USE/ACTION ITEMS**

- A. Fischer Point-** Request for a Comp Plan Land Use Map re-designation from "MBC" (Mixed Business Campus) to "C" (Commercial) and rezoning from "SG" (Sand and Gravel) to "RB" (Retail Business) of 25 acres and subdivision of 56 acres into one lot and five outlots. **(PC11-38-PZS)**

City Planner Tom Lovelace stated the petitioner is requesting the following actions for 55.75 acres of property located along in the southeast corner of CSAH 42 and Flagstaff Avenue:

- An amendment to the 2030 Comprehensive Plan Land Use Map, re-designating the northwest 25 acres of the site from "MBC" (Mixed Business Campus) to "C" (Commercial).
- Rezone the northwest 25 acres of the site from "SG" (Sand and Gravel) to "RB" (Retail Business).
- Subdivision of 55.75 acres of property into one (1) lot and five (5) outlots. The subdivision will also include the dedication of public streets to serve the site.

The purpose of this rezoning is to create property for a future 162,340 sq. ft. Menard's home improvement store on 19 acres and future retail development on the remaining 6 acres.

The zoning code requires that parcels with the "SG" zoning district shall have a minimum area of 20 acres. The proposed outlots will need to be removed from the plat or rezoned. Easements will be necessary over all public utilities as well as along the perimeter of each lot. Access to the proposed lot and outlots will be gained via a network of existing and proposed streets that are identified on the preliminary plat. The City's traffic consultant had reviewed this subdivision proposal.

Mr. Lovelace stated a public hearing was held on December 21, 2011, regarding this request. There were no comments from the public. Several issues were raised by staff relating to road right-of-ways and the ability for the applicant to provide these outlots in the sand and gravel mining zoning district. He stated staff is recommending approval.

Commissioner Scanlan referred to the previous Planning Commission meeting regarding jobs being created from the movement of the old location to the new location of retail versus the mixed business. He asked if there was a difference looking at the income level of mixed business versus retail business.

Mr. Lovelace said staff did not look at what the income level was. Staff looked at the traffic distribution as far as the number of jobs created by both types of operation. Traffic would increase because there is a lot more traffic that goes with retail than with mixed business. Creation of the number of jobs would be about the same. Staff did not research income levels.

Commissioner Scanlan stated his concern lies with the intent of the 2030 Comp Plan to be that the mixed business would bring single family head of household jobs into the City.

Mr. Lovelace agreed that was one of the components in the 2030 Comp Plan was to create those jobs.

Commissioner Scanlan addressed another concern and that was the surrounding commercial/retail space around Home Depot and behind the current Menards locations that are still available.

Mr. Lovelace agreed there are areas available but none that could accommodate this type of development.

Community Development Director Bruce Nordquist clarified that in the City's Comprehensive Plan, head of household jobs are sought throughout the mixed business campus and available industrial properties that are vacant in the City. The Economic Development Authority considers job goals but not specific wage earning requirements.

Commissioner Wasserman stated he understood that when the Comp Plan was drawn up the intent was for retail uses to stay west of Flagstaff Avenue. He was concerned as to how large retail uses will get in the City.

Chair Melander wanted to clarify that the Commission is charged as Planning Commission and should not consider economic issues but the highest use to the land. He said they need to consider market conditions at the time. He stated that in the past it had been pursued with diligence to attract other uses such as medical campuses and so far that has not happened. He stated we have a long time corporate citizen of Apple Valley looking to relocate and expand their operations.

Commissioner Diekmann questioned if the plans called for one lot and one outlot and that the City would do nothing with the remaining 37 acres as far as the plat goes.

Mr. Lovelace said yes.

Commissioner Diekmann was concerned that addition acreage on the site could create unusable land that could sit vacant for a period of time and questioned if the City was creating an under developed land because of the cost of development.

Commissioner Schindler referred to the time and work spent on the 2030 Comprehensive Plan and thought this is what the Commission was trying to avoid. He understood that retail business would not go east of Flagstaff Avenue.

Tom O'Neil, from Menards, 5101 Menard Drive, Eau Claire, Wisconsin, addressed the Commission. He stated Menards worked with staff to come up with creative solutions. It was not a viable solution to continue on with the existing store site.

**MOTION:** Commissioner Burke moved to recommend approval of the amendment to the 2030 Comprehensive Plan Land Use Map, re-designating the site from Mixed Business Campus to Commercial.

Motion failed due to a lack of a second.

**MOTION:** Commissioner Schindler moved, seconded by Commissioner Wasserman, to deny approval of the amendment to the 2030 Comprehensive Plan Land Use Map re-designating the site from Mixed Business Campus to Commercial because it does not fit in the 2030 Comprehensive Plan. Ayes - 4 - Nays - 2 - (Melander and Burke).

Commissioner Scanlan asked that it be noted for the record that he was not comfortable going forward on how this property would be used and needs a better understanding as far as limiting retail before going forward. He feels the 2030 Comp Plan for this property is getting lost and until he has a better understanding where they are going with this land, he has taken the position he did.

Commissioner Diekmann commented he agrees with Commissioner Scanlan and stated he would look at this request again. He feels Menards is a very good member of the community but his concern was the entire concept of looking at the whole site and understanding what the property owner intends to do with the rest of the site.

**B. Apple Valley Business Campus** – Consideration of the subdivision by plat of 27 acres of industrially zoned property into two lots and two outlots. **(PC11-28-S)**

Mr. Lovelace stated the petition for subdivision by replat of Outlot A of the Magellan Addition. 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 147<sup>th</sup> Street West and Flagstaff Avenue.

The property is guided for Industrial and is consistent with the Comprehensive Plan. The petitioner, Hebert and Associates, Inc., modified their site plan allowing for the relocation of the pipeline as needed. Staff recommends approval subject to conditions.

MOTION: Commissioner Diekmann moved, seconded by Commissioner Scanlan, recommending approval of the Apple Valley Business Campus preliminary plat for the subdivision by plat of 27 acres of industrially zoned property into two lots and two outlots subject to conditions:

- A 25-foot wide drainage and utility easement shall be established along the east property line over a future trunk storm sewer line.
- There shall be a minimum separation distance of 390 feet between the private driveways on Outlots A and B and Flagstaff Court, as measured from the centerlines of the driveways and street.
- The centerline of the easterly driveway shall be located a minimum of 35 feet from the east property line.
- An access restriction agreement, which limits access to 147<sup>th</sup> West, except at the driveway locations, shall be executed with the final plat.
- An access restriction agreement for Flagstaff Avenue shall be executed with the final plat.
- Storm water calculations shall be submitted for review by the City Engineer prior to issuance of the Natural Resources Management Permit (NRMP) to insure that the site meets the maximum discharge rate of 1.1 cubic feet per second.
- The number of inlet pipes into the proposed ponding areas shall be limited to two per pond.

- Inlet and outlet pipes shall be at the opposite ends of the ponds.
- Inlets shall be located in a manner that allows for City access for future maintenance and sediment removal.
- The discharge point of storm sewer from the site will be in the northeast corner of the lot.
- A minimum of one foot of vertical separation from the Emergency overflow locations (EOF) to the finished floor elevation is required. EOF and elevations for the ponds shall be shown on all future grading plans.
- Sanitary and water service lines for all the buildings shall be off Flagstaff Court.
- Fire hydrants within Lots 1 and 2 shall be spaced with a 250-foot radial coverage in accordance with the City Engineer.
- The property owner shall execute an easement conveyance agreement with Magellan Pipeline Company and the City in connection with the relocation of Magellan's pipelines on the property for construction of 147<sup>th</sup> Street and the City's required utility/drainage easements(s).
- The final plat shall designate the correct location of the easement for the relocated pipelines and utility/drainage in accordance with the fully executed easement conveyance agreement with Magellan Pipeline Company and the City as described in the above condition.

Ayes - 6 - Nays - 0.

## 7. OTHER BUSINESS

### A. Bogart's Outdoor Volleyball Courts Sketch – Sketch plan to review proposal for seasonal outdoor volleyball courts at Apple Place Bowl/Bogart's.

Associate Planner Margaret Dykes presented the petition of a sketch plan for outdoor volleyball courts at Apple Place Bowl/Bogart's, 14917 Garrett Avenue. The applicant is proposing to install two courts in the parking lot with the courts intended to be seasonal from May to September. This would remove 24 parking spaces which are located south of the building and just to the west. The courts would operate from 6:00 – 10:30 p.m. Sunday through Thursday. Weekends would be used for open and tournament play. The site plan shows a composite deck with a bar covered by a pergola that would provide service for beer, soda, and water. The courts will be filled with sand to a depth of 12-14 inches and drain tile will be installed for stormwater runoff.

The outdoor volleyball courts are currently not listed as a permitted or accessory use listed in the zoning code. Staff believes a Code amendment to allow outdoor recreational uses as a conditional use would better ensure that specific conditions could be placed on the use to ensure it would be compatible with surrounding uses. A conditional use permit would be required if the Code were to be amended.

The site shares parking area with Commons I, Commons II, and Paideia Academy. Due to staggered hours of operation they should still have ample parking available. If alcoholic beverages are to be sold or consumed outside, the existing liquor license will need to be amended. Additional conditions that need to be addressed would include: types of fencing, hours of operation, lighting, traffic, and removal and storage of the materials, if the use is to be temporary.

In order to move this forward, one way would be to move it to the City Council for determination on whether the proposed uses are consistent with the zoning ordinance but staff believes Code amendment best ensures conditions on the use to maintain compatibility with surrounding uses. Amendment to the existing site plan to allow for the outdoor courts, as well as, an amendment to the existing shared parking plan to allow for the reduction in parking would be required.

Rick Waggoner, Bogart's/Apple Place Bowl, 14917 Garrett Avenue, stated that he was the general manager of the volleyball operation at Cedarvale Lanes in Eagan. This is why he is interested in bringing it to Apple Valley. He said it is fantastic for summer because the league bowling season runs from September through April. He stated that when volleyball season is over everything goes away into storage including the deck sections that can be hauled away with a front-end loader to open up the 24 parking spaces again. The parking spaces would again be needed for league bowling in September.

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

Community Development Director Bruce Nordquist stated that the next Planning Commission meeting will take place Wednesday, February 15, 2012 at 7:00 p.m.

#### **8. ADJOURNMENT**

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

**MOTION:** Commissioner Burke moved, seconded by Commissioner Diekmanm, to adjourn the meeting at 8:25 p.m. Ayes - 6 - Nays - 0.

Respectfully Submitted,

/s/ Joan Murphy  
Joan Murphy, Planning Department Assistant

Approved by the Apple Valley Planning Commission on 2-15-12.