

CITY OF APPLE VALLEY
PLANNING COMMISSION MINUTES
MARCH 7, 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 Kathy Bodmer, Associate City Planner Margaret Dykes, City Attorney Sharon Hills, Assistant City Engineer David Bennett, Planning Intern Addison Lewis and Department Assistant Joan Murphy.

2. APPROVAL OF AGENDA

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

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

3. APPROVAL OF MINUTES OF FEBRUARY 15, 2012.

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 February 15, 2012, as written. Ayes - 6 – Nays - 0.

4. ANNUAL BUSINESS MEETING

The Commission nominated and elected officer positions amongst themselves. The officers, given only one nomination for each office, were accepted by unanimous consent under Robert's Rules of Order:

MOTION: Commissioner Burke moved, seconded by Commissioner Scanlan to nominate Thomas Melander to continue to serve as the Chair of the Planning Commission for one year. Ayes - 6 - Nays – 0.

MOTION: Commissioner Diekmann moved, seconded by Commissioner Wasserman to nominate Tim Burke to continue to serve as the Vice-Chair of the Planning Commission for one year. Ayes - 6 - Nays - 0.

MOTION: Commissioner Burke moved, seconded by Commissioner Diekmann to nominate David Schindler to continue to serve as Secretary of the Planning Commission for another year. Ayes - 6 - Nays - 0.

5. CONSENT ITEMS

--NONE--

6. PUBLIC HEARINGS

- A. U-Haul Propane Tank Dispenser C.U.P.** – Consideration of conditional use permit for a propane tank dispenser at the U-Haul storage facility. **(PC12-10-C)**

Chair Melander opened the public hearing at 7:03 p.m.

Associate Planner Margaret Dykes presented the request of the petitioner for a conditional use permit for outdoor display, sale and storage of a propane tank dispenser at the U-Haul Moving and Storage of Apple Valley located at 6895 – 151st Street W. The site plan shows one propane fuel tank will be located in the northeast corner of the parking lot. The location of the tank meets the required building setbacks. The single vertical tank will hold 1,000 gallons of fuel with the required support structures. There are concrete bollards surrounding the tank that would help protect it from vehicles.

U-Haul does not provide a cylinder exchange program, and the propane fuel is for refilling cylinders owned by customers. Filling of all customers' propane cylinders or tanks shall be performed by a trained U-Haul staff person and shall be conducted in the propane tank area.

Commission Scanlan inquired as to the training of the U-Haul staff employee who would be dispensing the fuel and filling the tanks.

Ms. Dykes stated the training will be done in-house.

Chair Melander asked for anymore comments from the Commission or public. Hearing none he closed the public hearing at 7:09 p.m.

MOTION: Commissioner Burke moved, seconded by Commissioner Schindler to recommend approval of a conditional use permit for the outdoor display, storage, and sales of a propane fuel dispenser tank subject to all applicable City codes and standards and the following conditions:

1. The Conditional Use Permit shall be for Lot 1, Block 1, U Haul Apple Valley Addition.
2. There shall be no more than one (1) above-ground propane fuel tank dispenser with a maximum capacity of 1,000 gallons, and a maximum height of 17.5' from grade. No underground fuel tanks are permitted as part of this Conditional Use Permit.
3. The display and sales area shall be no larger than 256 sq. ft. (16' x 16') as shown on the site plan received in City offices on February 24, 2012.
4. There shall be no other fuel tanks, dispensers, or fuel accessory material displayed or stored on the site except in the location denoted on said site plan.
5. Filling of all customers' propane cylinders or tanks shall be performed by a U-Haul staff person and shall be conducted in the propane tank area.
6. No smoking signage shall be installed, and a working fire extinguisher shall be located next to the dispenser unit to the satisfaction of the Fire Marshal.
7. The propane fuel tank shall be turned off from 10 p.m. to 6 a.m., or whenever the U-Haul office is unstaffed.
8. The property owner shall apply for and maintain an above-ground tank installation permit from the City. Approval of the above-ground tank permit is required prior to installation of the propane tanks.
9. The property owner shall apply for and maintain a fuel dispensing facility permit from the City. Approval of the permit is required prior to installation of the propane tanks.
10. No additional ground or building signs are permitted on the property except on-site directional denoting the location of the propane tanks. The surface of the tank shall not contain any lettering or advertising not required by applicable codes.

Ayes - 6 - Nays - 0.

B. CrossFit Northstar C.U.P. – Consideration of conditional use permit for a commercial exercise facility. (PC12-05-C)

Chair Melander opened the public hearing at 7:11 p.m.

Planning Intern Addison Lewis presented the request of the petitioner for a conditional use permit for a commercial recreational business in a “BP” (Business Park) zoning district. The business is proposed to be located in the Pilot Flex Center building at 14791 Energy Way. The applicant CrossFit NorthStar is a fitness training facility and is planning to relocate to gain more space to operate his business.

The main concern with operating a commercial recreation facility in a “BP” zoning district is that they typically have a higher demand for parking than what is available. The petitioner has stated that class sizes will be limited to no more than twenty people and that only one staff person will be at the facility at a given time. Staff feels comfortable with the parking provided given the peak time usage among the other tenants of the building.

Discussion led to the limitation of class size and parking requirements and if they were related.

Sean Flaherty, CrossFit NorthStar, clarified the reason they limit the class size to twenty is due to the kind of equipment that is used during the classes. Additional space per attendee is necessary for safety concerns due to the intensity of the training. Limited class numbers is strictly their policy not parking related to a City staff issue.

Chair Melander asked for anymore comments from the Commission or public. Hearing none he closed the public hearing at 7:25 p.m.

7. LAND USE/ACTION ITEMS

A. Apple Valley Business Campus – Consideration of the site plan/building permit authorization to allow for construction of two industrial buildings in a subdivision by plat of 27 acres of industrially zoned property into two lots and two outlots. **(PC12-06-B)**

City Planner Tom Lovelace presented the request of the petition, Hebert and Associates, Inc., for consideration of a site plan/building permit authorization to allow for construction of two industrial buildings in the Apple Valley Business Campus subdivision located at the northeast corner of 147th Street West and Flagstaff Avenue.

The most westerly portion of the site is the current location of several underground pipelines that are located within a 200-foot wide easement. Construction of the roadway will require the relocation of the pipelines.

Access to the Lots 1 and 2 will be via a driveway off Flagstaff Court that will straddle the common property line. Because half of the driveway is on each lot, a cross access agreement will need to be executed prior to issuance of a building permit. A cross parking agreement will need to be executed prior to issuance of a building permit due to a portion of half of the driveway and one space located on each lot. Elevation drawings and landscape plans were provided. City code requires that a tree survey be prepared by the developer to determine the actual number of significant trees, species and condition; and a tree mitigation plan for any of the significant trees that will be removed as part of construction.

Commissioner Diekmann questioned the landscape plan and the required amount of trees to be on the site as well as mature trees.

Mr. Lovelace stated the 2-1/2% requirement was generally for commercial and multi-family residential but the landscaping for industrial is raked down by 1%. He said the mature trees on the site currently encroach on one of the building sites and the developer will need to provide a tree mitigation plan for any of the significant trees that will be removed as part of construction.

Commissioner Schindler asked if the construction of 147th Street and Flagstaff Avenue will go in before construction starts on the Apple Valley Business Campus or at the same time.

Mr. Lovelace stated he feels the City can work with the applicant to avoid any conflict with the developer on this site or interference with the construction on 147th Street or Flagstaff Avenue. There would have to be coordination among the City, road contractor and developer in order to do this simultaneously. The road plan is for the construction of 147th Street west from Johnny Cake Ridge Road to Flagstaff Avenue and for Flagstaff Avenue to connect to the existing Flagstaff Avenue west of Eastview High School.

Chair Melander asked about the inspection by the Fire Marshal and if he was comfortable with the project.

Mr. Lovelace stated the Fire Marshal had conducted an inspection and he was comfortable with the location of fire hydrants and that water would be adequately supplied in the event of a fire.

MOTION: Commissioner Diekman moved, seconded by Commissioner Scanlan to recommend approval of the site plan/building permit authorization to allow for construction of a 54,501 sq. ft. building on Lot 1, and 50,000 sq. ft. building on Lot 2 of the Apple Valley Business Campus subdivision subject to the following conditions:

1. No building permit shall be issued until the final plat and a development agreement have been approved by the City and recorded with Dakota County.
2. Construction shall occur in conformance with all conditions set for in the City of Apple Valley Resolution No. 2012-52.
3. All trash enclosures shall be sufficient in size to accommodate all the trash receptacles for each building and the exterior finish of the enclosure shall compliment the building's finish.
4. All mechanical protrusions shall be screened in accordance with City code.
5. A cross access agreement will need to be executed prior to issuance of a building permit that will provide vehicular access to the parking lots and service areas on both lots.
6. A cross parking agreement will need to be executed prior to issuance of a building permit.
7. Fire hydrants within Lots 1 and 2 shall be spaced with a 250-foot radial coverage in accordance with the City Engineer.
8. Revisions shall be made to the grading and utility plans in accordance with the City Engineer's comments, as outlined in this staff report, prior to issuance of a Natural Resources Management Permit (NRMP).
9. The applicant shall submit storm water calculations for the site to ensure that the drainage areas are properly sized prior to issuance of a NRMP.
10. The submitted plans do not point out the location of any mechanical protrusions. All mechanical protrusions visible to the exterior shall be screened in accordance with City code.
11. Pedestrian connections shall be extended from the sidewalk along Flagstaff Court to the sidewalks in front of the buildings.
12. A detailed planting price list shall be required for verification of the City's 1-1/2% landscaping requirement at the time of submission of plans for a building permit.

13. The Colorado spruce tree shall be replaced with Black Hills spruce.
14. Trees shall be added in the ponding areas. Species shall include swamp white oak and river birch with other more suitable tree species added to the upper most slope areas.
15. A list of plants and seed mixes shall be submitted for the ponding areas prior to issuance of a NRMP.
16. Sod/seed designations shall be shown on the landscape plan for all disturbed areas.
17. Parking lot islands shall be required to be installed in accordance with City code.
18. Revisions shall be made to the grading and utility plans in accordance with the City Engineer's comments prior to issuance of a NRMP.
19. A tree inventory and mitigation plan shall be submitted approved by the City prior to issuance of a building permit.

Ayes - 6 - Nays - 0.

B. Fischer Point- Reconsideration of February 1, 2012, recommendation regarding petitioner's request for a Comp Plan Land Use Map re-designation from "MBC" (Mixed Business Campus) to "C" (Commercial); and request for 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, Fischer Sand and Aggregate LLC, is asking for reconsideration requesting the following actions for 55.75 acres of property located along in the southeast corner of CSAH 42 and Flagstaff Avenue:

- Reconsideration of 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 55.73 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 establish a 19-acre lot of record for a future 162,340 sq. ft. Menard's home improvement store on and a 6-acre outlot for future retail development.

Outlots B, C, D, E, and F will be created on property that is zoned "SG" (Sand and Gravel). These outlots will vary in size from 2.9 to 6.3 acres. The zoning code requires that parcels located within 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 prior to approval of the final plat. The petitioner has proposed that these outlots be rezoned to be consistent with the current Comp Plan designation. They have stated that they will make application within 30 days after all the City approvals for the Menard's project.

There is currently not a zoning classification that is consistent with the "MBC" designation. Staff would need to prepare an "MBC" zoning ordinance for Outlots B, D, and E. The City may want to start this rezoning process earlier than the timeline proposed by the petitioner.

If the Planning Commission concurs, staff is recommending the following:

1. A motion to recommend approval of the amendment to the 2030 Land Use Map to re-designate the Lot 1 and Outlot A, FISCHER POINT, according to the proposed preliminary plat dated February 14, 2012, from "MBC" (Mixed Business Campus) to "C" (Commercial).
2. A motion to recommend approval of the rezoning of Lot 1 and Outlot A, FISCHER POINT, according to the proposed preliminary plat dated February 14, 2012, from "SG" (Sand and Gravel) to "RB" (Retail Business).
3. A motion to recommend that staff begin preparation of an ordinance consistent with the goals and policies set forth in the 2030 Comprehensive Plan's "Mixed Business Campus" designation and begin the rezoning process for Outlots B, D, and E.
4. A motion to recommend approval of the FISCHER POINT preliminary plat, subject to the following conditions:
 1. The plat, dated February 14, 2012, shall consist of Lot 1 and Outlots A, B, D, and E only.
 2. Approval of the final plat shall include the dedication of the south 100 feet of right-of-way for CSAH 42.
 3. A one foot (1') wide easement shall be dedicated that will restrict direct driveway access to Flagstaff Avenue.
 4. A temporary drainage and utility easement will be established over the ponding area located directly east of Lot 1.
 5. Easements shall be required over all public utilities.
 6. Roadway improvements shall be made consistent with the recommendations set forth in the City's traffic consultant's memo dated January 16, 2012.
 7. 153rd Street West shall have a centerline curvature radius of 700' to reflect a 40 mph design.

Community Development Director Bruce Nordquist provided an overview of the 2030 Comprehensive Plan and shared a market study that occurred in 2011 including employment modeling in the 2030 Comp Plan. The Planning Commission has used guiding land use, followed by development proposals that required amended land use, as a successful strategy on many occasions.

Commissioner Diekmann acknowledged concern for semi-truck traffic using a roundabout.

Mr. Lovelace stated County Rd 42 could be designed for a right-in and a right-out as an alternative to using the roundabout.

Commissioner Wasserman expressed concerns on traffic issues and stated he feels traffic is congested at certain times especially on Saturdays. He was concerned for the large parcel being

piecemealed away and with this excellent piece of property it becomes a concern if it is not available at a future date for another project.

Commissioner Burke stated he feels this is a reasonable use for the property and within the limits for what they had designed for the property. He is in favor of moving forward with the proposal.

Commissioner Schindler stated he still has concerns of bringing in a big box retail east of Flagstaff Avenue but is willing to go along with the proposal because the applicant has now narrowed down the lots involved to be developed.

Commissioner Scanlan said he would maintain his original concerns of bringing retail to the site and feels it is not a well thought out project going forward. He does not feel Mixed Business Campus is in line with the 2030 Comp Plan.

Commissioner Diekmann stated his original concern was the spread of retail down County Rd 42 to the east. He does not know if the Mixed Business Campus was thought out as completely as it should have been. It was a great idea and still thinks it is a great idea but feels it needs further definition. The landscape of the economy is changing rapidly. He feels the change in manufacturing output and the service industry are making Mixed Business Campus not as attractive as thought four or five years ago. He does not feel holding up this retail project is a good thing. He likes that Menards is reinvesting in the community and that the applicant, Fischer Sand and Aggregate, has scaled back on their plans and can see moving forward. He will support this project but would like to understand more on design control for Outlots B and D and if Menards will have control on those lots and what gets built on them.

Tom O'Neil, Menards 5101 Menard Drive, Eau Claire, WI, stated they are under contract to purchase Lot 1 and Outlot A. They still want to preserve site lines to their store. Menards has no control over the other outlots.

MOTION: Commissioner Diekmann moved, seconded by Commissioner Burke, to recommend approval of the amendment to the 2030 Land Use Map to re-designate the Lot 1 and Outlot A, FISCHER POINT, according to the proposed preliminary plat dated February 14, 2012, from "MBC" (Mixed Business Campus) to "C" (Commercial). Ayes - 4 - Nays - 2. (Scanlan and Wasserman)

MOTION: Commissioner Diekmann moved, seconded by Commissioner Burke, to recommend approval of the rezoning of Lot 1 and Outlot A, FISCHER POINT, according to the proposed preliminary plat dated February 14, 2012, from "SG" (Sand and Gravel) to "RB" (Retail Business). Ayes - 4 - Nays - 2. (Scanlan and Wasserman)

MOTION: Commissioner Diekmann moved, seconded by Commissioner Burke to recommend that staff begin preparation of an ordinance consistent with the goals and policies set forth in the 2030 Comprehensive Plan's "Mixed Business Campus" designation and begin the rezoning process for Outlots B, D, and E. Ayes - 4 - Nays - 2. (Scanlan and Wasserman)

MOTION: Commissioner Diekmann moved, seconded by Commissioner Burke, to recommend approval of the FISCHER POINT preliminary plat, subject to the following conditions:

1. The plat, dated February 14, 2012, shall consist of Lot 1 and Outlots A, B, D, and E only.
2. Approval of the final plat shall include the dedication of the south 100 feet of right-of-way for CSAH 42.
3. A one foot (1') wide easement shall be dedicated that will restrict direct driveway access to Flagstaff Avenue.
4. A temporary drainage and utility easement will be established over the ponding area located directly east of Lot 1.
5. Easements shall be required over all public utilities.
6. Roadway improvements shall be made consistent with the recommendations set forth in the City's traffic consultant's memo dated January 16, 2012.
7. 153rd Street West shall have a centerline curvature radius of 700' to reflect a 40 mph design.

Ayes - 4 - Nays - 2. (Scanlan and Wasserman)

Peter Fischer, Fischer Sand and Aggregate, thanked the Commission for reconsideration and approval. He appreciated the comments everyone made and will take them seriously.

7. OTHER BUSINESS

A. Review of upcoming schedule and other updates.

Community Development Director Bruce Nordquist stated that the next Planning Commission meeting will take place Wednesday, March 21, 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 Schindler moved, seconded by Commissioner Burke, to adjourn the meeting at 9:15 p.m. Ayes - 6 - Nays - 0.

Respectfully Submitted,

/s/ Joan Murphy
Joan Murphy, Planning Department Assistant

Approved by the Apple Valley Planning Commission on 3-21-12.