

CITY OF APPLE VALLEY
PLANNING COMMISSION MINUTES
MAY 16, 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, Ken Alwin, Tim Burke, Paul Scanlan, David Schindler and Brian Wasserman.

Members Absent: Keith Diekmann

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

2. APPROVAL OF AGENDA

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

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

3. APPROVAL OF MINUTES OF MAY 2, 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 May 2, 2012, as written. Ayes - 6 – Nays – 0.

4. CONSENT ITEMS

A. Milner Setback Variance – Consideration of a 10-foot front yard setback variance to allow for construction of a single-family home 20 feet from the front property line. **(PC12-18-V)**

MOTION: Commissioner Burke moved, seconded by Commissioner Alwin, recommending approval for a variance for a single family residence located at 13628 Gotham Court (Lot 4, Block 1, Valley Oaks Estates Addition) to reduce the front setback from the required 30' to 20' for the construction of a single family home. Ayes - 6 – Nays - 0.

5. PUBLIC HEARINGS

A. Magellan Butane and Product Storage Expansion – Consideration of a conditional use permit for six butane tanks and site plan review/building permit authorization for six butane tanks and three fuel storage tanks. **(PC12-13-CB)**

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

Associate Planner Kathy Bodmer stated this is a request from Magellan Pipeline Company, LP, for a public hearing to consider a conditional use permit (CUP) for six 60,000 gallon butane storage tanks and site plan review/building permit authorization to construct six 60,000 gallon butane storage tanks, one 200,000 barrel and two 150,000 barrel fuel storage tanks.

The Magellan Pipeline Company property is located at 6451 - 150th Street West. Existing Conditions: The Magellan Pipeline Company property is located within the "I-2" zoning district which allows crude oil, gasoline or other liquid storage tanks as a permitted use within the zoning district. Currently there are nine tanks on the site ranging in size from 40,000 barrels (1.68 million gallons) to 80,000 barrels (3.36 million gallons). The existing 9 tanks have a total storage capacity of 510,000 barrels or 21.42 million gallons.

The zoning code requires a conditional use permit in the I-2 zoning district for storage of materials which could "decompose by detonation." The butane tanks are pressurized, and therefore require a CUP. Butane would be delivered to the site via tanker trucks and stored in the horizontal storage tanks. Butane would be blended with gasoline during the cold driving season (September to May) and then distributed through Magellan's pipeline system. The tanker trucks will access the site via a drive access off of a newly constructed 147th Street on the north side of the property. Magellan states that 20 truckloads of butane would be delivered daily to the site. The City may wish to place conditions on the CUP such as limiting the number of trucks delivering fuel to the site to a maximum of 20 per day and designating specific truck routes for the butane delivery.

The site plan also shows the addition of three large fuel storage tanks which are 48' tall. They will need a variance from the maximum height requirement of 40' in the I-2 zoning district. Three existing tanks on the Magellan site are 48' tall.

Ms. Bodmer reviewed the Wellhead Protection Plan and any concerns raised by the Fire Chief.

Staff will update the Planning Commission at a later date concerning the environmental review process that will be required for this project.

Commissioner Schindler questioned why there would not be an entrance off County Road 42 opposed to the trucks entering the site off 147th Street.

Ms. Bodmer stated that would be a question for the petitioner. She said there would be a concern from Dakota County regarding the access for turn lanes and allowing for stacking created by the trucks slowing up for turning into the site.

Commissioner Schindler suggested there could be an entrance on the east side of the property to allow for trucks to enter the site.

Ms. Bodmer stated another entrance location has not been explored at this time.

Commissioner Alwin asked what the impact of a fire may be with the proximity to the water treatment plant just down the Flagstaff Ave extension.

Ms. Bodmer stated those concerns are covered in the Fire Chief's comments that an entire system be set up on site for fire protection.

Commissioner Scanlan inquired if there was a chance for the applicant to change the diameter of the tanks to eliminate the need for a variance of over 40 feet.

Ms. Bodmer answered the petitioner has had a chance to review that idea but the Fire Chief stated that provides for more surface area of a tank and provides for more fire risk. The Fire Chief recommends to go the route of a variance with a taller tank. Three of the existing tanks are 48 feet tall and the new tanks would be consistent with what is currently on site.

Commissioner Scanlan questioned if there was an issue with a fire and the tanks being in such close proximity to the high school, is there any special planning that should be taken into consideration.

Ms. Bodmer stated that the Fire Chief had recommended conditions to include completing a site fire safety and emergency response analysis.

Mr. Bruce Heine, Director of Government and Media Affairs for Magellan Midstream Partners, provided an overview of the company and the proposed improvements to the Magellan Apple Valley station.

Mr. Austin McClain, Manager of GLO Compliance and Logistics for Magellan Midstream Partners, addressed the scope of the proposed project consisting of a Butane Injection System and Refined Products Storage Tanks. He stated it is the company's intent to take feedback from the City and use that as design criteria. He said it is their intent to work with the City of Apple Valley.

Commissioner Scanlan asked how rapidly butane dissipates into the atmosphere in the event of a leakage.

Mr. McClain answered it is temperature related. He pointed out that all the tanks have safety devices and are designed with automatic shutdown. Check valves detect increased flow and there is electrical monitoring.

Commissioner Wasserman inquired where there might be another tank expansion site in Minnesota that would be similar to the Apple Valley site.

Mr. McClain answered there is another site in Willmar, Minnesota similar in size.

Commissioner Wasserman asked if the design criteria is local responsibility or federal responsibility.

Mr. McClain stated they would propose to bring the design back to the Planning staff and have the City involved in the design.

Commissioner Schindler inquired as to why 147th Street was chosen for the entrance rather than County Road 42.

Mr. McClain answered that they did not want to create a traffic snarl on County Road 42 with the trucks slowing down to turn into the site. He felt it would be easier and safer to manage the traffic on the north side of the property.

Commissioner Scanlan asked what impact the lighting will have on the surrounding neighborhoods with a 24-hour operation rather the entrance would be from the north or from the south.

Mr. McClain stated there would be a lighting and sound analysis done and the parameters would be reviewed.

Fire Chief Nealon Thompson stated the City is working closely with Magellan to see that all the safety requirements are met and dealt with. He agrees that fire suppression is a priority here. He said since it is an industrial facility it does impose a fire challenge for the department but with the appropriate fire protection in place they would feel comfortable that any emergency could be handled within a short amount of time.

Chair Melander stated the public hearing would be kept open because there are other items that need to be addressed.

Ms. Bodmer introduced an email submitted to the City from Del Danielson, President/CEO of United Educators Credit Union and it has become a matter of public record for comments.

MOTION: Commissioner Schindler moved, seconded by Commissioner Alwin, recommending the public hearing remain open indefinitely. Ayes - 6 – Nays - 0.

B. Fischer Property, East of Pilot Knob Road – Consideration for a Comp Plan Amendment as part of a future rezoning and subdivision request of approximately 88 acres to allow for single family residential development. **(PC12-14-P)**

Chair Melander opened the public hearing at 8:04 p.m.

City Planner Tom Lovelace provided the background of the request for an amendment to the land use chapter of the 2030 Comprehensive Plan to add criteria for residential projects to be developed at densities less than 3 units per acre. The amendment would allow for the potential construction of a 182-lot single family development by D. R. Horton on 77 acres of land located at the southeast

corner of County State Aid Highway (CSAH) 42 and future Embry Path, which would have an overall density of 2.4 units per acre.

The Comprehensive Plan states that some infill projects may need to develop at densities lower than 3 units per acre when conditions such as severe slopes, mature trees, lakes, wetlands, or in cases when proposed development would be compatible with existing adjacent residential neighborhoods. However, those developments that are not special cases need to have a minimum density of 3 units per acre.

The proposed D.R. Horton project would be located on a former sand and gravel mining operation that has been graded and has no significant trees or natural features. Based upon the existing criteria in the land use chapter, the proposed development would not receive a density reduction.

D. R. Horton's analysis of this specific site and the overall residential development market indicates that single-family residential developments consistent with the City's "R-3" zoning (Single Family Residential/1 1,000 sq. ft. minimum lot area) would be the highest and best use of the property.

Although D.R. Horton's proposed development does not meet the Comprehensive Plan's Low Density Residential ("LD") designation minimum density requirement of 3 units per acre, it does address other goals and policies of the plan. One of those is the need to provide a balanced and diverse housing supply.

In the last few years it appears that the demand for attached housing has slowed and the demand for single-family housing has increased. Developers continue to tell City officials that the townhome market is not expected to bounce back in the foreseeable future and the market demand for single-family continues to be strong.

Staff proposes that the following language be added to the Low Density Residential ("LD") section of the Comprehensive Plan's land use chapter: The City will also consider densities of less than three units per acre when it can be justified by means of a valid market analysis.

Commissioner Alwin stated he likes the concept of allowing that move-up capability into a second house on a slightly smaller lot.

Chair Melander agreed with Commissioner Alwin and thinks it is only prudent for the City to acknowledge market conditions in the Comp Plan with this new text amendment.

Ron Kohls, 15564 Eagles Nest Way, stated he grew up on the farm where these houses are proposed and he would like to see more single-family homes built.

Alan Kohls, 15634 Early Bird Circle, stated he hears from his neighbors in his townhouse development that they are looking for bigger houses and they like the area. He said he supports this proposed single family housing development because it relates to this neighborhood and surrounding developments.

Tia Radant, 15207 Dundee Avenue, commented on the elevation of land from her neighborhood of Tousignant's Prairie Crossing compared to this new development. She stated there is quite a difference in elevation and feels there is a severe slope that needs to be addressed as this process moves forward. There currently is an interruption of sidewalk and bike path along the south side of County Road 42 and she would like to see that addressed in reaching the final phases of development. She recognizes that there are private properties and respects them that they may not be ready for sidewalks at this time. She supports the concept of less than three units/acre in this area.

Mr. Lovelace stated these comments and concerns will be addressed as part of the process if the project was to move forward. He stated this will require a preliminary plat which in turn will require another public hearing.

Commissioner Scanlan commented that he is in support of the change to the Comprehensive Plan of density to less than three units/acre.

Chair Melander closed the public hearing at 8:30 p.m. He stated that although it is the policy of the Planning Commission to not take action on an item on the night of its public hearing, staff requested a motion this evening. Chair Melander called for a motion.

MOTION: Commissioner Alwin moved, seconded by Commissioner Burke, to recommend approval of a text amendment to the 2030 Comprehensive Plan for single-family developments to consider densities of less than three units per acre when it can be justified by means of a valid market analysis. Ayes - 6 - Nays - 0.

6. LAND USE/ACTION ITEMS

--NONE--

7. OTHER BUSINESS

A. Review of upcoming schedule and other updates.

Mr. Bruce Nordquist stated that the next Planning Commission meeting will take place Wednesday, June 6, 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 Alwin moved, seconded by Commissioner Schindler, to adjourn the meeting at 8:34 p.m. Ayes - 6 - Nays - 0.

Respectfully Submitted,

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/s/ Joan Murphy
Joan Murphy, Planning Department Assistant

Approved by the Apple Valley Planning Commission on 6-6-12.