

CITY OF APPLE VALLEY  
PLANNING COMMISSION MINUTES  
OCTOBER 17, 2012

**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 Brian Wasserman.

Members Absent: Tom Melander and David Schindler

Staff Present: Community Development Director Bruce Nordquist, City Planner Tom Lovelace, Associate 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.

MOTION: Commissioner Alwin moved, seconded by Commissioner Diekmann, approving the agenda. Ayes - 5 - Nays - 0.

**3. APPROVAL OF MINUTES OF OCTOBER 3, 2012.**

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 October 3, 2012, as written. Ayes - 5 - Nays - 0.

**4. CONSENT ITEMS**

**A. Majestic Cove Apartments Sign Variance** – Consideration of a setback variance to allow for the replacement of an existing monument sign to be constructed at the existing sign's current location. **(PC12-36-V)**

LOCATION: Southeast corner of 157th Street West and Cedar Avenue, 7472 – 157th Street W.

PETITIONER: Stephen Haight

MOTION: Commissioner Diekmann moved, seconded by Commissioner Alwin recommending approval for a 10.7' sign setback variance from the 13' setback requirement for the Majestic Cove sign at 7472 - 157th Street West, allowing the sign to be located 2.3' from the newly established right-of-way line of Cedar Avenue, based upon the following findings:

1. The property owner wishes to replace an existing sign with a new sign in the same location.

2. The petitioner will not expand the size nor increase the height of the sign.
3. There will be no negative impacts on neighboring properties resulting from this variance.
4. The variance is needed based upon actions taken by Dakota County in connection with the Cedar Avenue reconstruction project and is not a result of actions taken by the property owner.

And additional conditions:

1. The variance is approved for the sign in the location as of the date of the variance approval and as depicted on the Dakota County Highway Department drawing received in City Offices on August 29, 2012.
2. The applicant/owner shall file and record the City Council Resolution granting the variance against the property at the Dakota County Recorder's Office.

Ayes - 5 - Nays – 0.

## 5. PUBLIC HEARINGS

--NONE--

## 6. LAND USE/ACTION ITEMS

- A. Parkside Village (formally known as Legacy North)** – Consideration of proposed development zoning amendments, preliminary plat, and site plan/building permit authorization to allow for two multiple-family buildings totaling 322 units in the former Legacy North development. **(PC12-31-ZSBG)**

LOCATION: Northeast corner of Galaxie Avenue and 153rd Street W.

PETITIONER: IMH Special Asset NT-AVN, LLC, and Titan Development.

Associate Planner Kathy Bodmer stated the property owner, IMH Special Asset NT 176-AVN, LLC and the developer, Titan Development, wish to develop two multiple family buildings with a total of 322 units in the Parkside Village, located on the northeast corner of Galaxie Avenue and 153rd Street. They are requesting consideration of amendments to PD-739 Zoning District (Central Village), preliminary plat and site plan/building permit authorization.

Ms. Bodmer said the Planning Commission held the public hearing for this item at its September 19, 2012, meeting. The revised plans indicate that the number of units has been reduced from 332 units down to 322 units, a reduction of 10 units. The Galante building had been reduced from 134 to 126 units while the Gabella building has been reduced from 198 to 196 units. The units were reconfigured and some of the smaller units were made larger, but no changes were made to the footprint of the buildings.

She reviewed characteristics, setbacks, and amenities for the two buildings. She stated the petitioner requested several amendments to Planned Development No. 739. During the review of the request to vacate the drainage and utility easements in order to create the buildable lot, Center

Point Energy informed the City that it has a gas main located along Galaxie Avenue and 153rd Street which requires a minimum ten foot (10') drainage and utility easement. As a result, the building had to be shifted east to ensure it is out of the easement area.

She stated the City Engineer raised a concern about the elevation of the underground garage in relation to the elevation of the stormwater pond. The petitioner proposes to disconnect the trench drain and to use a pump to address the potential flooding issue. The City Engineer has indicated that he is amenable to this solution and would work with the petitioner to finalize the design.

Ms. Bodmer reviewed surface and garage space design, elevation drawings, landscape plans, vacation of Fontana Trail from Gabella Street to 152nd Street and addressed questions and concerns that were brought forward from the public hearing. Staff found that the project complies with the requirements of the zoning and subdivision code requirements and the planned development zoning district.

Commissioner Alwin inquired if the narrower garage parking spaces for the Galante building would be allocated to particular units or to residents upon request.

Tony Patinella, Titan Development, LLC, answered they would encourage the use of narrower parking spaces for those with compact vehicles.

Commissioner Scanlan asked for clarification on the rezoning changes.

Ms. Bodmer summarized that new zones would be created and stated none of the property on the west side of Galaxie Avenue would be impacted.

Commissioner Scanlan asked of the wing shortening of the Galante building was shortened initially from what was first shown on the sketch view.

Ms. Bodmer stated the wings were shortened from the sketch plan to the first plan but since the public hearing the wings were the same length.

Commissioner Diekmann commented on the Galante building and the encroachment into the drainage and utility easement. He stated that one of the architectural features of that building was the ability to get to the street level and asked what other design would not create an encroachment.

Ms. Bodmer stated staff is working with the developer. It could take shifting the building, perhaps working with the utility company to come up with a shorter easement, or coming up with a different design.

Commissioner Diekmann stated he would rather not lose that feature.

Ms. Bodmer stated the Attorney's office is looking at a solution to keep it a walkable active street front that is an important design consideration.

MOTION: Commissioner Diekmann moved, seconded by Commissioner Alwin, recommending approval to the PD-739 (Central Village) with the following conditions:

- a. Rezone Blocks 3, 7, and 8, The Legacy of Apple Valley North, to Zone 3, to allow those uses as set forth for Zone 1.
- b. Rezone all of Lot 1, Block 1, The Legacy of Apple Valley North, to Zone 4 which would allow those retail and commercial uses as set forth for Zone 2 (no mixed-use required) in a single-story building with a 2-story design.
- c. The height of the commercial buildings in Zone 4 as measured from grade shall be a minimum of 25 feet and shall be designed to appear as a two-story building.
- d. Delete Zone 1A regulations from Article A31 of the City Code.
- e. Allow 10% of parking stalls in an underground parking garage to be 8.5' wide in Zone 3 adjacent to Galaxie Avenue.
- f. Allow the depth of 90 parking stalls to be reduced to 19' in Zone 3 adjacent to Galaxie Avenue.

Ayes - 5 - Nays - 0.

MOTION: Commissioner Diekmann moved, seconded by Commissioner Alwin, recommending approval of retaining Zone 2 zoning designation (mixed use) for Block 9, The Legacy of Apple Valley North. Ayes - 5 - Nays - 0.

MOTION: Commissioner Diekmann moved, seconded by Commissioner Scanlan, recommending approval of rezoning of Block 10, The Legacy of Apple Valley North, to Zone 3 (residential), and allow for assisted care facility on said Block 10. Ayes - 5 - Nays - 0.

MOTION: Commissioner Diekmann moved, seconded by Commissioner Alwin, recommending approval of the preliminary plat of Parkside Village, subject to compliance with all code requirements and the following conditions:

- a. Approval of the preliminary plat is subject to the approval of the vacation of the right- of-way of Fortino Street, the right-of-way of Fontana Trail, and all existing drainage and utility easements.
- b. Drainage and utility easements shall be dedicated in accordance with the City's subdivision ordinance.
- c. A 30' drainage and utility easement shall be dedicated for the relocated 24" storm sewer line east of the right-of-way line of Fontana Trail in the location directed by the City Engineer.
- d. A minimum 10' drainage and utility easement shall be dedicated adjacent to Galaxie Avenue and 153rd Street West rights-of-way.
- e. A cash-in-lieu of land parkland dedication shall be required in accordance with the City's dedication formula in the subdivision ordinance.
- f. Stormwater pond dedication has been previously satisfied.

Ayes - 5 - Nays - 0.

**MOTION:** Commissioner Diekmann moved, seconded by Commissioner Scanlan, recommending approval of the site plan and give building permit authorization to construct the 126-unit Galante building without encroachment into the Galaxie Avenue utility and drainage easement and the 196-unit Gabella building in the Parkside Village subject to compliance with all City code requirements and construction standards and the following conditions:

- a. Approval of the building permit is subject to approval and publication of zoning amendments to Planned Development No. 739, Article 31 of the City Code, and execution of a Planned Development Agreement.
- b. Approval of the building permit is subject to the approval of the vacation of the right- of-way of Fortino Street, the right-of-way of Fontana Trail, and all existing drainage and utility easements.
- c. Approval of the building permit is subject to approval of the final plat and development agreement of Parkside Village.
- d. A landscape bid list that confirms that the landscape plantings meet or exceed 2-1/2% of the value of the construction of the building based on Means Construction Data shall be submitted at the time of building permit application.
- e. The landscape plan shall be revised to replace the honeylocust trees along Galaxie Avenue with a tree that is better suited to the limited size of the planting area to be reviewed and approved by the Natural Resources Management Coordinator.
- f. A lighting plan shall be submitted at time of building permit application.
- g. A hauling and staging plan shall be submitted at time of Natural Resources Management Permit (NRMP) application.

Ayes - 5 - Nays – 0.

**B. Kwik Trip Store Reconstruction** – Consideration of a proposed replat, amendments to conditional use permits, variance, and site plan/building permit authorization to allow for the reconstruction of an existing gas/convenience store and car wash operation. **(PC12-30-SCB)**

**LOCATION:** 7510 – 145th Street West

**PETITIONER:** Kwik Trip, Inc. and Convenience Store Investments.

City Planner Tom Lovelace stated the applicant requested approval of a replat of two existing lots into one (1) lot, amendments to existing motor fuel sales, car wash operations and outdoor display conditional use permits; and site plan/building permit authorization to allow for construction of a 5,764 sq. ft. convenience store, 1,879 car wash bay, 4,800 sq. ft. fuel canopy, and 23 surface parking spaces. The site is located at the northwest corner of 145th Street West and Cedar Avenue.

The site includes the current multi-tenant retail building of the existing Kwik Trip convenience store and Big Apple Bagel restaurant, a 970 sq. ft. car wash bay, a 3,700 sq. ft. fuel canopy, and 61 surface parking spaces.

The proposed plat identifies all the required perimeter drainage and utility easements as well restricted access easement along Cedar Avenue. No outstanding issues have been identified. The existing motor fuel sales, car wash, and outdoor display sales conditional use permits would need to be amended that would address their proposed operations. Building signage had been identified on the elevations but no formal sign application had been submitted. All building signage would need to be in conformance with the City's sign regulations. A sidewalk would be installed along the north side of 145th Street West.

He stated the applicant is requesting a variance for two 35-foot wide driveways off of 145th Street West to access the site. Maximum driveway width allowed by City code is 30 feet. An existing driveway off of Glenda Drive would be removed with the new construction, and no access would be allowed from Cedar Avenue.

He identified the outdoor display locations and reviewed building and fuel canopy elevation plans. He said revisions would need to be made to the grading, utility, and landscape plans per staff comments as outlined in the report.

Commissioner Diekmann asked for clarification in the report as to the infiltration basins versus the filtration basins.

Mr. Lovelace stated the report currently reflects infiltration basins and modification to the plans had not been made yet to show the filtration basins but would be submitted with the building permit.

Commissioner Scanlan commented on the LED lighting and thought the brightness of the lighting could be controlled since the new store would be so close to the residential area and possibly a 24-hour operation. He asked if this had been discussed with the developer.

Mr. Lovelace answered that lighting had not been discussed yet but that it would be open ended and if the City receives complaints. The City would have the ability to contact the store and request for them to racket the lighting down a little. In the past the City has developed good relationships with the property owners in the business district and has worked with them to tone down the lighting if needed.

Commissioner Scanlan asked if there was a reason the LP would be in the front of the store versus the side where the ice chest storage would be. He expressed the concern for the outside appearance of the LP tanks and how they start to look after a period of time.

Wade Dumont, Kwik Trip Inc., LaCrosse, Wisconsin, stated the ice chest would be for staff availability. He commented that they use non-corrosive propane tanks with a stainless steel type of finish which do not rust. Regarding the LED lighting, he stated they have not had complaints at their other stores and they would work with City staff if it becomes an issue. He addressed the

outdoor display of merchandise at the fuel station end caps and stated they prefer to keep their stores as similar as possible so their customers would be more familiar with their product.

Commissioner Alwin was in support of the wider driveways for the trucks to enter and exit but not in favor of products to be stored on the end caps of the pump displays.

Commissioner Scanlan concurred with the increase of driveway widths and also preferred not to see outdoor merchandising.

Commissioner Diekmann questioned if the outdoor vending machines was something not allowed in this area alone or was it not allowed in any areas of Apple Valley.

Mr. Lovelace answered it is not allowed in the retail business zoning area unless with a conditional use permit and could be allowed in a planned development but generally outdoor vending machines are not allowed.

**MOTION:** Commissioner Alwin moved, seconded by Commissioner Diekmann, recommending approval of the replat of Lots 1 and 2, BOR-NEL into Lot 1, Block 1, KWIK TRIP 406. Ayes - 5 - Nays - 0.

**MOTION:** Commissioner Alwin moved, seconded by Commissioner Diekmann, recommending approval of the following amendments to the approved conditional use permit for motor fuel sales, dated May 24, 1983:

- a. The Conditional Use Permit shall apply to property legally described as Lot 1. Block 1, KWIK TRIP 406.
- b. Such operations shall be in conformance with the site plan dated July 18, 2012.
- c. No more than thirteen (13) pump islands shall be allowed.
- d. Canopy lighting above the gas pumps shall be either completely recessed or provided with a lens bezel to restrict illumination to the area directly beneath the canopy.
- e. The red LED lighting on the face of the canopy shall be illuminated in a manner that will not have an adverse impact on neighboring properties or vehicles traveling along the roadways adjacent to the site.
- f. Any fuel dispensing public address system shall not be used for advertising or background music purposes.

Ayes - 5 - Nays - 0.

**MOTION:** Commissioner Alwin moved, seconded by Commissioner Diekmann, recommending approval of the following amendments to Conditional Use Permit No. 1993-168, dated July 22, 1993 for car wash operation in conjunction with a convenience store/motor fuel operation:

- a. The Conditional Use Permit shall apply to property legally described as Lot 1. Block 1, KWIK TRIP 406.

- b. Such operations shall be in conformance with the site plan dated July 18, 2012.
- c. Such operations shall be in conformance with the elevation plans dated July 10, 2012.

Ayes - 5 - Nays - 0.

**MOTION:** Commissioner Alwin moved, seconded by Commissioner Diekmann, recommending approval of the following amendments to Conditional Use Permit No. 1993-238, dated October 14, 1993 for outdoor display and sales in conjunction with a convenience store/motor fuel operation:

- a. The Conditional Use Permit shall apply to property legally described as Lot 1, Block 1, KWIK TRIP 406.
- b. Such operations shall be in conformance with the site plan dated July 18, 2012.
- c. Display of goods at the end of the pump islands shall not be allowed.
- d. Outdoor display of vending machines shall not be allowed.

Ayes - 5 - Nays - 0.

**MOTION:** Commissioner Alwin moved, seconded by Commissioner Diekmann, recommending approval of the site plan/building permit authorization to allow for construction of a 7,643 commercial building that will include a 5,764 convenience store and 1,879 sq. ft. attached single stall car wash facility and 4,800 sq. ft. fuel canopy on Lot 1, Block 1, KWIK TRIP 406, subject to the following conditions:

- a. A variance shall be granted to allow for a 5-foot increase in the width of the driveways along 145th Street West from the maximum 30 feet allowed by City Code.
- b. Issuance of a building permit shall be contingent upon the approval and recording of the KWIK TRIP 406 final plat.
- c. Construction shall occur in conformance with the site plan dated July 18, 2012.
- d. A sidewalk shall be constructed along the north side of 145 Street West, from Cedar Avenue to Glenda Drive.
- e. Construction shall occur in conformance with the elevation plan dated July 10, 2012.
- f. Construction shall occur in conformance with the landscape plan dated July 18, 2012, subject to the replacement of the Colorado blue spruce trees with Black Hills spruce.
- g. The site grades shall meet a minimum elevation of 957 feet and the building elevation shall have a minimum elevation of 957.5 feet.
- h. Overland flow from the east side of the building shall be directed to Filtration Basin #1.
- i. Catch Basin #3 should be converted to a manhole.

- j. Site grading shall ensure flow from the east side of the building to Filtration Basin #1 is maximized.
- k. The filtration basins shall be designed and constructed in accordance with City standards and shall have sufficient capacity for 0.5" of volume over the entire site in a 48 hour period.
- l. Any work within the public right-of-way shall require a right-of-way permit and shall be coordinated with engineering staff.
- m. Construction shall occur in conformance with the utility plan dated July 18, 2012; subject to necessary revisions as identified by the City Engineer in his memo dated September 24, 2012.
- n. All applicable City ordinances shall be adhered to.

Ayes - 5 - Nays - 0.

## 7. OTHER BUSINESS

### A. Chick-fil-A Restaurant Sketch Plan - Review of a proposed 4,585 sq. ft. Class II restaurant with a drive-thru.

LOCATION: Southeast corner of 153rd Street West and Cedar Avenue

PETITIONER: Chick-fil-A, Inc. and H.R. Green

City Planner Tom Lovelace stated the proposed site is part of the replat of the existing Cub Foods property that consists of the replatting of the 11.63-acre lot into a one 9.63-acre lot and two one-acre lots. The proposed restaurant would be located on the one-acre lot located in the northwest corner of the plat. Construction of the proposed restaurant would be contingent on the approval of CUB FOODS ADDITION final plat.

Review of a concept plan for a proposed development project would consist of the construction of a 4,585 sq. ft. Chick-fil-A restaurant, 38-space parking lot, and drive-thru lane on .988 acres. The site is located in the southeast corner of 153rd Street West and Cedar Avenue.

A Class II restaurant is a conditional use within the "RB" (Retail Business) zoning district and cannot be located any closer than 1,000 feet from a residential or institutional use. A variance would need to be approved along with a conditional use permit for this restaurant to move forward.

Jason Hill, Chick-fil-A, provided background information of their company and design and said they would be looking at a 2013 spring construction. He stated they typically use two menu boards but they are of a smaller design.

Discussion followed regarding the dual drive-up lanes and double menu board and what was allowed in other locations in the City.

Commissioner Diekmann said he had no problem with the dual boards and stated it should be revisited again for further discussion. He would like to see the canopy wrap around the building more so it does not look so front-sided and back-sided.

Commissioner Scanlan stated he would be open for discussion on the dual menu boards as well. He said he preferred to not see a variance needed for setback and questioned where deliveries to the site would be made and if the trucks would block the aisle for the drive-up.

Mr. Hill answered they take delivery of their products at off peak hours.

Commissioner Wasserman inquired if there was a landscape plan yet and if it was the responsibility of the City with Cedar Avenue or is it part of the restaurant responsibility.

Mr. Lovelace stated it would be part of the restaurant responsibility.

Vice-Chair Burke commented that he would like to see the building line up with the Walgreens along the corridor and not see one building far back from the street and felt that the sound barrier wall across Cedar would make it so the applicant could get by without the 1000 foot requirement. He stated he was in favor of the project.

Commissioner Wasserman inquired if there would be a public hearing associated with the project.

Mr. Lovelace answered that there would be a public hearing for a Class II restaurant.

Commissioner Scanlan commented he would be agreeable to looking at the variance design based on the clarification Mr. Lovelace provided. He inquired if there was any other design consideration to move the restaurant further into the parking lot to bring the trash container closer to the store so the employees would not be walking across the lane of traffic from the drive-thru.

Mr. Hill stated they have changed the design footprint in the past where they had extended the trash enclosure to the back of the store which extended the length of the building. They do not have that option with this site due to the location of the property line.

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

Community Development Director Bruce Nordquist stated that October was "Community Planning Month" and he provided a proclamation from Governor Mark Dayton.

He informed the Commission that on October 23, 2012, from 5:30 to 7:30 p.m. there would be a Bus Rapid Transit Oriented Development Open House to be held at the Apple Valley Municipal Center in the Council Chambers.

He also informed the Commission that the event previously planned for October 23, 2012, at 3:00 p.m., a Kick-Off event of the Apple Valley Business Campus, has been postponed to a later date and staff would notify the Commission when it is rescheduled.

He stated that the next Planning Commission meeting would take place Wednesday, November 7, 2012, 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 Diekmann moved, seconded by Commissioner Alwin to adjourn the meeting at 8:49 p.m. Ayes - 5 - Nays - 0.

Respectfully Submitted,

      /s/  Joan Murphy        
Joan Murphy, Planning Department Assistant

Approved by the Apple Valley Planning Commission on       11/7/12      .