

CITY OF APPLE VALLEY  
PLANNING COMMISSION MINUTES  
SEPTEMBER 4, 2013

**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: City Attorney Sharon Hills, Community Development Director Bruce Nordquist, City Planner Tom Lovelace, Planner Kathy Bodmer, 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. Hearing none he called for a motion.

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

**3. APPROVAL OF MINUTES AUGUST 21, 2013.**

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

MOTION: Commissioner Alwin moved, seconded by Commissioner Schindler, approving the minutes of the meeting of August 21, 2013. Ayes - 5 - Nays - 0. Abstain - 1 - (Wasserman).

**4. CONSENT ITEMS**

--NONE--

**5. PUBLIC HEARINGS**

**A. ISD 196 ECFE/ECSE/ABE Building** - Public hearing to consider subdivision by preliminary plat of 13.7-acre unplatted parcel and site plan review/building permit to allow for construction of a 52,000 sq. ft. building for early childhood, family and adult education, the relocation of a 64' x 40' (2,560 sq. ft.) cold storage garage and the relocation of two fuel pumps with two underground fuel tanks. **(PC13-35-SB)**

LOCATION: 14445 Diamond Path

PETITIONER: Independent School District 196

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

Planner Kathy Bodmer stated the property is zoned "P" (Institutional) which allows educational facilities and administrative offices, but currently does not allow for maintenance and storage facilities like the cold storage building, the bus barn, or the outdoor storage area. The zoning code would need to be amended to allow the relocated cold storage building, the outdoor storage area and the fuel dispensing area.

The site would be graded and shaped so that the 2-story building would be constructed into the hill with entrances on the upper and lower levels. The back of the building would act as a retaining wall with two retaining walls extending off of the northwest and east sides of the building. The building's main entrance would be on the lower level on the east side of the building. The parking lot would be accessed from the private internal drive that is connected to 144th Street and Diamond Path. Buses would drop off students on the north side of the building on the upper level of the site.

A fuel dispensing area consisting of two fuel pumps and two underground storage tanks would be relocated from south of the existing bus barn to west of the bus barn. An existing metal-clad cold storage building and a fenced storage area would be relocated from the southwest portion of the site up to the area west of the bus barn. The relocated fueling area and cold storage building west of the bus barn was proposed to be surfaced with gravel. The area is gravel today and buses park on the gravel surface. Any surface used for vehicle traffic, parking or storage must be a paved surface.

Barbara Savanick Trail, a City trail corridor that extends from the north side of County Road 42 up to Farquar Park just south of Farquar Lake, drops at the District 196 property. This development project may provide an opportunity for a connection through the site up to Tintah Park.

Screening of the School District property from residential properties to the west and Tintah Park to the north is a concern. The landscape plans show extensive tree plantings throughout the site to help screen the development from the residential properties to the west.

A traffic study would be needed which provides trip generation and distribution resulting from this new development.

Discussion followed.

Scott McQueen, Wold Architects, provided additional information.

Steve Budnik, 4771 – 144th Street W., inquired if a traffic study had been conducted yet.

Chair Melander answered that it had not been done yet.

Mr. Budnik expressed concern that the project had come to this point already if the traffic study on 144th Street had not been completed yet. He felt the street is not designed to handle the amount of traffic that would be generated. Diamond Path Elementary is a STEM school. He asked if the

traffic study could be done during the morning hours when parents are dropping off their children. He also expressed concern for the amount of traffic generated during soccer games and would like late afternoon hours considered as well during the traffic study. He inquired why the berm on 144th Street would need to be taken out. He felt it could be used to screen the view from the neighborhood so they do not have to look at the campus. He expressed concern what the campus could do to his property value. He stated ISD 196 would be coming to the voters for a levy in the fall. He questioned where the district is getting the money to pay for the campus if they are asking the voters for more money. He is a firm believer that if you do not have it, do not spend it. He asked if the campus could be built at another location that could accommodate a higher volume of traffic rather than a residential street.

Scott Syverson, 14410 Drumlin Ct., commented on the traffic and felt it is a high traffic area. He felt 144th Street is a narrow street when cars are parked there. He had concerns for people crossing there and felt that a traffic study would be so important.

Lenae Gabert, 4780 – 144th Street W., expressed concern for the volume of traffic and the high rate of speed. She added that school buses use 144th Street to drive to Eastview High School.

Further discussion followed.

Chair Melander closed the public hearing at 7:53 p.m.

**B. Cortland HOA Community Pool** – Public hearing to consider a land use map amendment to the Comprehensive Plan from “LD” (Low Density Residential/2-6 units per acre ) to “P” (Parks and Open Space) and rezoning from “R-3” (Single Family Residential) to “P” (Institutional) of Outlot A, CORTLAND and Lot 1, Block 3, CORTLAND SECOND ADDITION; and site plan/building permit authorization to allow for Home Owners Association (HOA) community pool with 480 sq. ft. bath house and 240 sq. ft. mechanical room on Lot 1, Block 3, CORTLAND SECOND ADDITION **(PC13-31-PZB)**

LOCATION: 15341 Eagle Bay Way

PETITIONER: D. R. Horton, Inc.-Minnesota and the City of Apple Valley

Chair Melander opened the public hearing at 7:54 p.m.

City Planner Tom Lovelace stated the applicant is requesting amendments to the 2030 Comprehensive Land Use Map that would re-designate Outlot A, CORTLAND and Lot 1, Block 3, CORTLAND SECOND ADDITION from "LD" (Low Density Residential/2-6 units per acre) to "P" (Parks and Open Space), rezoning from "R-3" (Single Family Residential/11,000 sq. ft. minimum lot area) to "P" (Institutional), and site plan/building permit authorization to allow for a Home Owners Association (HOA) run community pool with bath house and mechanical building on the .43-acre Lot 1, Block 3, CORTLAND SECOND ADDITION.

The proposed HOA pool would be located on property that is guided for low density residential uses and is zoned "R-3", which allows for single-family dwellings as a permitted use and private swimming pools for the use of the occupants of the premises as a permitted accessory use.

Institutional zoning districts are areas designed to serve the public and quasi-public uses and includes community swimming pools as a permitted use. Re-designation and rezoning of the property would make it consistent with the proposed use.

He reviewed setbacks, proposed parking as well as building elevations and landscape plan. A six-foot high ornamental fence would be installed around the perimeter of the site, which would provide the necessary barrier required by the zoning code.

Discussion followed.

Mike Suel, D.R. Horton Homes, provided additional information.

Chair Melander closed the public hearing at 8:08 p.m.

**MOTION:** Commissioner Burke moved, seconded by Commissioner Alwin recommending approval of amendments to the 2030 Comprehensive Land Use Map re-designating Out lot A, CORTLAND and Lot 1, Block 3, CORTLAND SECOND ADDITION from "LD" (Low Density Residential/2-6 units per acre) to "P" (Parks and Open Space). Ayes - 6 - Nays - 0.

**MOTION:** Commissioner Burke moved, seconded by Commissioner Alwin recommending approval of the rezoning of Outlot A, CORTLAND and Lot 1, Block 3, CORTLAND SECOND ADDITION from "R-3" (Single Family Residential/11,000 sq. ft. minimum lot area) to "P" (Institutional). Ayes - 6 - Nays - 0.

**MOTION:** Commissioner Burke moved, seconded by Commissioner Alwin recommending approval of site plan/building permit authorization of a Home Owners Association swimming pool on Lot 1, Block 3, CORTLAND SECOND ADDITION; subject to the following conditions:

- a. The buildings shall be set back a minimum of 35 feet from Eagle Bay Way.
- b. The applicant shall replace the Pink Spires crabapple trees with a higher disease resistant tree.
- c. Creation of a Common interest Community (CIC) in the form of a condominium or planned community that identifies Lot 1, Block 3, CORTLAND SECOND ADDITION as a common element to be maintained by the HOA and used for a community pool.
- d. Issuance of a building permit shall be subject to the recording of the CIC declaration and a deed conveying of Lot 1, Block 3, CORTLAND SECOND ADDITION to the association along with a letter from the developer to the Dakota County Assessor containing the following notice: Lot 1, Block 3, CORTLAND SECOND ADDITION constitutes common elements not subject to separate tax or assessment.

Ayes - 6 - Nays - 0.

## 6. LAND USE/ACTION ITEMS

**A. Apple Valley Business Campus 2nd Addition** – Consideration of final plat and site plan/building permit to allow for construction of a 83,072 sq. ft. building and 324-space parking lot on a separate lot located directly east of the building. **(PC13-38-SB)**

LOCATION: 14645 Felton Court and 6275 147th Street West

PETITIONER: Hebert and Associates, Inc.

City Planner Tom Lovelace summarized the request for site plan/building permit authorization to allow for construction of an 83,072 sq. ft. building and 281 surface parking spaces on a 10.73-acre parcel and a 324-space surface parking lot on a 2.99-acre parcel located at 14645 Felton Court and 6275 147th Street West. He stated the applicant also requested approval of the replat of Outlots A and B, APPLE VALLEY BUSINESS CAMPUS into two lots of record. The APPLE VALLEY BUSINESS CAMPUS 2ND ADDITION final plat would be considered by the City Council when they review the proposed site plan/building permit authorization request.

No building permit would be issued until the property has been replatted. Replatting of the property would require that the applicant create a Common Interest Community (CIC) in which Outlot A would have the building and Outlot B would be the "Common Elements" (Common Area) consisting of a parking area serving the new lot on Outlot A.

Discussion followed.

Mark Hebert, Hebert and Associates, provided additional information.

MOTION: Commissioner Alwin moved, seconded by Commissioner Burke recommending approval of the site plan/building permit authorization to allow for construction of a 83,072 sq. ft. building and 281 surface parking spaces on Lot 1, Block 1, APPLE VALLEY BUSINESS CAMPUS ADDITION 2ND ADDITION and 324-space surface parking lot on Lot 1, Block 2 APPLE VALLEY BUSINESS CAMPUS ADDITION 2ND ADDITION; subject to the following conditions:

1. No building permit shall be issued until the APPLE VALLEY BUSINESS CAMPUS ADDITION 2ND ADDITION final plat has been approved and recorded with Dakota County.
2. No building permit shall be issued until a Common Interest Community (CIC) has been recorded with this final plat and the CIC shall include the following conditions:
  - a. The Developer shall create a common interest community ("CIC") in the form of a condominium or a planned community that is subject to Minnesota Statutes Chapter 515B, the Minnesota Common Interest Ownership Act, consisting of Lot 1, Block 1, and Lot 1, Block 2, APPLE VALLEY BUSINESS CAMPUS 2 ADDITION. The CIC declaration, articles of

incorporation and bylaws shall be approved by the City Attorney prior to recording or filing.

- b. The CIC Declaration shall identify Lot 1, Block 2, as a common element to be maintained by the association and used for parking to serve the building on Lot 1, Block 1.
  - c. If the CIC is a condominium, then prior to the issuance of a certificate of occupancy for any building on Lot 1, Block 1, the Developer shall record (i) the CIC declaration and (ii) a CIC plat conforming to Minn. Stat. § 515B.2-1101. The CIC declaration and CIC plat shall be accompanied by a letter from the Developer addressed to the Dakota County Assessor containing the following notice: "Lot 1, Block 2, constitutes "common elements" not subject to separate tax or assessment as provided in Minn. Stat. § 515B.1-105(b)(2)."
  - d. If the CIC is a planned community, then prior to the issuance of a building permit for Lot 1, Block 1, the Developer shall record (i) the CIC declaration and (ii) a deed to convey Lot 1, Block 2, to the association. The CIC declaration and the deed shall be accompanied by a letter from the Developer addressed to the Dakota County Assessor containing the following notice: "Lot 1, Block2, constitutes "common elements" not subject to separate tax or assessment as provided in Minn. Stat. § 515B.1-105(b)(2) and Minn. Stat. § 273.124, Subd. 2(a). The value of unit(s) in the planned community must be increased by the value added by the right to use the common elements in connection with the planned community. The common elements of the development must not be separately taxed."
3. Issuance of a building permit shall be subject to the completion and recording of the vacation of the portion of a pipeline easement area as indicated on the easement description drawing prepared by Jacobson Engineers and Surveyors, dated June 11, 2013.
  4. The color of overhead doors on the west elevation shall be similar in color as the building's exterior finish.
  5. If the building is occupied by a single office user, the west elevation should be constructed consistent with elevation drawings labeled "Options #1 and #2" prepared by Lampert Architects, dated August 26, 2013.
  6. Landscaped parking islands shall be installed in accordance with the City's code requirements.
  7. Private storm sewer lines shall be designed and installed per City standards.
  8. All applicable City codes and ordinances shall be strictly adhered to.

Ayes - 6 - Nays - 0.

**B. Apple Valley East Family 2nd Addition** – Consideration of amendments to Planned Development Ordinance No. 856 and subdivision of 14.5 acres into 34 single-family lots and one (1) outlot for future commercial/retail uses. **(PC13-32-ZSF)**

LOCATION: Northeast corner of 155th Street West and Pilot Knob Road

PETITIONER: South Shore Development, Inc.

City Planner Tom Lovelace reviewed the request by South Shore Development for completion of previously proposed amendments to the 2030 Comprehensive Plan Land Use Map, amendments to Planned Development Ordinance No. 856 and the subdivision by plat of approximately 14.5 acres of property located in the northeast corner of 155th Street West and Pilot Knob Road.

He stated the applicant requested that the City complete the proposed amendments to the Comprehensive Plan Land Use Map, which were submitted to the Metropolitan Council in 2010 as part of previous request for the subject property. The amendments would re-designate the north 9 acres from "MD" (Medium Density Residential/6-12 units per acre) to "LD" (Low Density Residential/2-6 units per acre) and the south 5.5 acres from "MD" to "C" (Commercial).

The rezoning request would create "PD-856/zone 2" over the north 9 acres of the existing outlot and amend the existing planned development ordinance by adding uses, area requirements, and performance standards for zone 2. No zoning changes would be expected to the south 5.5 acres (future Outlot A) until a development plan is submitted. This outlot would be reserved for future commercial retail uses and the uses, area requirements, and performance standards for the future zone would be established at the time of submittal of a development proposal for the property.

The final request is for approval of subdivision by plat of the 14.5-acre Outlot A, APPLE VALLEY EAST FAMILY ADDITION into 34 single family lots on approximately 9 acres and a 5.5-acre outlot.

Jacob Fick, South Shore Development, provided additional information.

Discussion followed.

MOTION: Commissioner Scanlan moved, seconded by Commissioner Burke recommending approval of the completion of the amendment to the 2030 Land Use Map re-designating the north 9 acres of Out lot A, APPLE VALLEY EAST FAMILY ADDITION from "MD" (Medium Density Residential/6-12 units per acre) to "LD" (Low Density Residential/2-6 units per acre) and the south 5.5 acres of Outlot A, APPLE VALLEY EAST FAMILY ADDITION from " (Medium Density Residential/6-12 units per acre) to "C" (Commercial). Ayes - 6 - Nays - 0.

**MOTION:** Commissioner Scanlan moved, seconded by Commissioner Burke recommending approval of the rezoning of the north 9 acres of Outlot A, APPLE VALLEY EAST FAMILY ADDITION to Planned Development No. 856/zone 2. Ayes - 6 - Nays - 0.

**MOTION:** Commissioner Scanlan moved, seconded by Commissioner Burke recommending to direct staff to prepare ordinance amendments for Planned Development No. 856/zone 2 that include permitted, conditional, and accessory uses; and area requirements and special performance standards consistent with the proposed development plans and driveway widths not to exceed 14 feet in the right-of-way. Ayes - 6 - Nays - 0.

**MOTION:** Commissioner Scanlan moved, seconded by Commissioner Burke recommending approval of the APPLE VALLEY EAST FAMILY 2ND ADDITION preliminary plat, subject to the following:

- a. A five-foot wide sidewalk easement along the west side of Embry Path near the intersection of 155th Street West shall be dedicated to the City.
- b. The final plat shall include drainage and utility easements, a minimum of ten (10) feet wide, which shall abut the street right-of-way and shall be centered on the rear and side lot lines.
- c. Access restriction easements along the north side of Outlot A and the east lot lines of Lot 15, Block 1; and Lots 1 and 19, Block 2 shall be provided to restrict vehicular access to Emblem Way and Embry Path.
- d. A temporary vehicle turnaround shall be required at the end of the street abutting Lots 1 and 2, Block 1.
- e. Park dedication requirements shall be satisfied by a cash-in-lieu of land contribution.
- f. The low floor on Lot 7 shall not be lower than 934.2.
- g. The top and bottom elevations of all retaining walls shall be added to the grading plan.
- h. The north/south street shall be shifted west five feet.

Ayes - 6 - Nays - 0.

## **7. OTHER BUSINESS**

- A. Red Line Market and Development Study** – Presentation by Kimley-Horn of preliminary findings from METRO Red Line Market and Development Study by City of Apple Valley and Dakota County.

Planner Kathy Bodmer provided an introduction of the METRO Red Line Market and Development study. The Corridors of Opportunity (CoO) is a 3-year metropolitan initiative that began in 2011 to promote sustainable, vibrant and healthy communities along the region's transitway corridors.

