

CITY OF APPLE VALLEY
PLANNING COMMISSION MINUTES
AUGUST 6, 2014

1. CALL TO ORDER

The City of Apple Valley Planning Commission meeting was called to order by Vice-Chair Tim Burke at 7:00 p.m.

Members Present: Ken Alwin, Tim Burke, Keith Diekmann and Paul Scanlan,

Members Absent: Tom Melander, David Schindler and Brian Wasserman.

Staff Present: City Attorney Michael Klemm, 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

Vice-Chair Burke asked if there were any changes to the agenda.

Community Development Director Bruce Nordquist commented that item 7A – Dunn Brothers Drive-Thru Sketch Plan would be removed from the agenda at the applicant’s request.

MOTION: Commissioner Diekmann moved, seconded by Commissioner Scanlan, approving the revised agenda. Ayes - 4 - Nays - 0.

3. APPROVAL OF MINUTES JUNE 18, 2014.

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 Scanlan, approving the minutes of the meeting of June 18, 2014. Ayes - 4 - Nays – 0.

4. CONSENT ITEMS

--NONE--

5. PUBLIC HEARINGS

A. Palomino Hills Rezoning – Public hearing to consider rezoning from “R-2” (Single family, 18,000 sq. ft. min. lot) to “R-3” (Single family, 11,000 sq. ft. min. lot) and setback variances to allow a tax identification split of two lots of record for construction of a single family home. **(PC14-23-V)**

LOCATION: 403 Cimarron Road

PETITIONER: Micasa, LLC

Vice-Chair Burke opened the public hearing at 7:01 p.m.

Planner Kathy Bodmer stated the petitioner, Micasa, LLC, requests consideration of a proposed rezoning from "R-2" (Single family residential, 18,000 sq. ft. min. lot) to "R-3" (Single family residential, 11,000 sq. ft. min. lot) and variances reducing the front yard setbacks, for the property located at 403 Cimarron Road. The subject property is comprised of two platted lots of record, Lots 1 and 2, Block 2 PALOMINO HILLS, which are assigned a single tax identification number. The home was constructed on Lot 1, the northern lot, in 1960 according to Dakota County records. The property owner wishes to sell the vacant lot, Lot 2, for construction of a new single family home. In order to do that, it is necessary for the County to assign separate tax identification numbers for each of the lots. The County requires City Council review and approval of requests for separation of tax identification parcels.

The property is zoned "R-2" (Single family, min. lot 18,000 sq. ft.), but the two lots, as shown on the survey, do not meet the minimum lot area requirements of the zoning district. According to the survey, Lot 1 is 15,302 sq. ft. and Lot 2 is 15,098 sq. ft. At staff's request, the City Attorney reviewed the request for the tax split and opined that because the tax split would create two lots not meeting the R-2 minimum lot area requirements, the tax split should not be approved under the current zoning designation. As a result, the property owner proposes to rezone the parcels to "R-3" (Single family, 11,000 sq. ft. min. lot) in order to move forward with the tax identification split of the property.

The petitioner requests two variances for the project. The first would reduce the front yard setback from 30' to 10' for the existing house on Lot 1. The survey indicates the home is located 10.9' from the right-of-way line. The boulevard is larger than is typically found in residential developments, ranging from 18' to 38', so that the location of the home appears to be consistent with the rest of the neighborhood.

The second variance is for construction of the new home on Lot 2. The petitioner requests a variance reducing the front setback from 30' to 20' to shift the house away from the infiltration ponding area on the east side (rear) of the lot. Severe slopes exist along the east side of the lot, so a variance would help to minimize impacts to the ponding area.

Construction of a new home will result in additional stormwater run-off into the infiltration ponding area in the rear (east side) of these two lots. Staff recommends that dedication of drainage and ponding easements for infiltration and ponding be a condition of approval of this project. The drainage and ponding easement should be dedicated up to an elevation of 1019' as shown in the attached easement drawing prepared by Probe Engineering.

Commissioner Scanlan commented it is difficult to get a perspective how the land interacts with the pond and additional easement to go forward. He asked for a better understanding of the elevation change.

Commissioner Alwin, referring to the slide of lot parcels, stated that adjacent to this property, some lots are larger and some are smaller.

Jeff Scislow noted he would work with the City regarding the easement. He said the plans would be for a two story house with a three car garage and look consistent with the neighborhood.

Chad Olson, builder to construct the house, commented on the trees and the position of the house on the lot and not to impose on the neighborhood. They would like to save as many trees as possible.

Craig Westerberg, 141 Surrey Trail S., stated that in 2006 they had a fire on their property which consisted of three lots. The house was built across two lots. He was required by the City to combine his three lots. Most lots are spacious and very heavily wooded in this area. He thinks this project is inconsistent with the rest of the neighborhood and does not fit. There is a very steep grade on the lot. During the 1990s a neighbor was not allowed to sell off one of his lots. He was asking for the Commission to be consistent with that they currently have in Palomino Hills.

Connie Boemer, 391 Cimarron Road, commented she lives to the south of the proposed lot. She had to bring in 100 truck loads of fill to their lot in order to put a driveway in. She expressed concern for the number of trees that would die when the fill would need to be brought in for this new project. There is a holding pond and she had water in her backyard this year. She is concerned that she will have water in her backyard after the proposed lot would have the elevation changed. She commented there is a bus stop at that corner and expressed concern for the children at the bus stop during construction. She had a concern for oak wilt spreading due to construction.

Kathie Brandenburg, 394 Cimarron Road, stated the street is not wide enough and there are lots of accidents on that corner. There is wildlife in the area. She is very much opposed to this project.

Jenaro Paz commented he had been living at the house on the property at 403 Cimarron Rd for about 6 months and had planned to purchase the lot. He was not told of the owner's plans to split the lot. He received an eviction notice and did not receive his down payment money back.

Bill Loftesness, 376 Cimarron Road, stated he does not like to tell others what to do with their property. He expressed concern for the wetland and feels it will take a tremendous amount of fill to shore up a new house.

Wayne Southwell, 124 Cimarron Ct., stated he is excited about people wanting to improve the neighborhood and he welcomes the interest. He is concerned about other requests to rezone from an R-2 to an R-3 that would change the neighborhood and believes some lots were grandfathered in when the rules were passed. He questioned that if they were grandfathered in, why did they not make everything R-3 back then. Do they really want to go down the road of changing their

neighborhood by changing from one zone to another and changing the character of the neighborhood.

Casey Wollschlager, 153 Surrey Trail, commented he is in support of a new house being built but maybe more where the existing house is located due to the condition of that house. He said the real problem is changing the zoning in an R-2 district simply to make it convenient for someone else when there is nothing inconsistent with the rest of the neighborhood under the existing zoning. You are setting a precedence that any time you want to build on a property we will just change the zoning for that one particular parcel and now have a new set of rules that do not comply with the new zoning either. He does not believe in establishing a new set of setbacks that do not comply with the zoning you have come up with. The applicant would have to get a variance under the new zoning just to comply. He feels the homeowner should tear the house down and build a new one and not to put another house on another lot. He said there is no benefit to the neighborhood or to the community to add another lot besides the City making more money from taxes.

Charles Colin, 137 Surrey Trail N., commented on the couple that moved into the existing house and then lost it. He said they were the best neighbors and cleaned up that house. It was the best it looked in the last 15 years.

Ira Shapiro, 104 Surrey Trail N., had multiple concerns. The petitioner evicted the previous tenant of the house for no apparent reason other than he did not have a contract. He expressed concern regarding the statement that it is going to be a new house but yet if you look half a mile in any direction, you will not find any new houses there. The building of this new house would be a distraction and he expressed concern for the elementary students that stand at the bus stop.

Al Birr, 136 Surrey Trail S., commented that the road in this area is very narrow and thinks the road should be widen where it comes off of Pennock and a sidewalk should be added.

Ms. Bodmer stated staff will be prepared at the next meeting to respond to the issues that have been identified depending on if the petitioner decides to move forward with the subdivision, then it would be a two meeting delay.

Commissioner Diekmann asked for the next meeting if it could be shown where the driveway would come onto Cimarron Road in relation to the corner itself so they could see how cars would enter and exit the new property.

Vice-Chair Burke inquired if an overlay could be shown regarding how much grading would need to be done on the property.

Commissioner Scanlan questioned if the pond was a naturally occurring pond.

Ms. Bodmer stated the Water Quality Technician called it an historic wetland.

Commissioner Scanlan inquired if there were specific requirements in terms of building near such historic ponds.

Ms. Bodmer answered that basically it was a wetland and then the City made it part of the storm sewer system. It has been altered a little with pipes and maybe expanded a little bit to provide capacity. The only setback requirement that would impact that would be buffering. If the pond does require buffering we would be looking for a 30 foot buffer.

Commissioner Scanlan asked if that is what you are talking about with the easement.

Ms. Bodmer answered actually it is two different items. The buffer would be vegetation to help with water quality and drainage. The easement would just be a dedication on a drawing.

Commissioner Scanlan asked within the easement or outside the easement.

Ms. Bodmer answered she would think it would be within the easement but will have to double check that.

Vice-Chair Burke closed the public hearing at 7:50 p.m.

B. Augustana Health Care Center – Public hearing to consider an interim use permit for a 24-space parking lot on 6-acre lot. **(PC14-28-I)**

LOCATION: Northeast corner of 147th Street West and Garrett Avenue

PETITIONER: Augustana Health Care Center of Apple Valley

Vice-Chair Burke opened the public hearing at 7:51 p.m.

City Planner Tom Lovelace stated the petitioner is requesting approval of an interim use permit (IUP) to allow for construction of 24-space parking lot and infiltration area on .8 acres of a 5.87-acre vacant parcel of property located at 147th Street West and Garrett Avenue. The proposed parking lot would be located at the northeast corner of the parcel and would provide additional parking for staff and guests of the Augustana Health Care Center, which is located directly north on a separate lot.

In 2011, the City approved an overall site plan for the subject property, which included a two-story transitional care facility and 32-space parking lot in the location of the proposed parking lot as their first phase. It was expected that the additional parking in the first phase would help alleviate some of their immediate on-site parking challenges. The expansion project had been postponed, but the applicant would like to proceed with construction of a parking lot as a short-term fix. This parking lot may be incorporated into their expansion plans or would be removed as part of any development on the subject property.

An interim use is defined as temporary use of property until a particular date, until the occurrence of a particular event or until zoning regulations no longer permit it. An IUP may be issued for a temporary use of property until a particular date, until the occurrence of a particular event or until zoning regulations no longer permit it.

The proposed parking lot is considered an accessory use, which is permitted in conjunction with a primary use such as an office or retail use. No primary use currently exists on the subject property. Therefore, an interim use permit must be granted for the parking lot. Approval of the IUP and construction of the parking lot shall be subject to the all off-street parking design requirements set forth in the zoning code.

Commissioner Scanlan inquired if this was to go forward if there were any landscaping requirements.

Mr. Lovelace stated that they would have to meet all the landscaping requirements as stated in the Apple Valley Code. There would be landscaping requirements as well as curb and gutter around it. It would have to be a standard parking lot.

Vic-Chair Burke closed the public hearing at 7:58 p.m.

MOTION: Commissioner Diekmann moved, seconded by Commissioner Scanlan, recommending approval of the interim use permit to allow for construction of a 24-space parking lot on Lot 2, Block 1, APPLE VALLEY COMMERCIAL 4TH ADDITION, subject to the following conditions:

- Construction shall be in conformance with the grading and pavement plan dated April 9, 2014.
- The Interim Use Permit shall terminate on five years from the date of City Council approval or replatting/development of Lot 2, Block 1, APPLE VALLEY COMMERCIAL 4TH ADDITION, or until zoning regulations no longer permit it, whichever occurs earlier.
- The parking lot shall be constructed in conformance with the off-street design requirements as set forth in the Apple Valley code of ordinances and any other applicable ordinances.

Ayes - 4 - Nays - 0.

6. LAND USE/ACTION ITEMS

A. Cobblestone Lake Office/Retail Building – Consider site plan/building permit authorization to allow for a 9,007 sq. ft. office/retail building on a .95-acre lot. **(PC14-25-B)**

LOCATION: 15675 Cobblestone Lake Parkway

PETITIONER: Bear Cobblestone 2, LLC

City Planner Tom Lovelace summarized the request for site plan/building permit authorization to allow for construction of a 9,007 sq. ft. office/retail building and 48 surface parking spaces on a .95-acre lot, located at the northwest corner of 157th Street West and Cobblestone Lake Parkway.

The proposed development plan is generally consistent with the Cobblestone Lake Commercial development master plans that were approved in 2007. Those plans showed a 7,200-sq. ft. building on the subject property and a 4,555-sq. ft. building on the outlot to the southwest, and a 98-spaced shared parking lot. Also shown on the approved plans was a paved plaza, which would be located

between the two buildings. The proposed increase in the size of the buildings would result in the loss of plaza. Staff would like to work with the developer on an alternative gathering area at that location or at some off-site location.

Staff has reviewed the grading and utility plans and has no outstanding issues.

The Natural Resources Coordinator reviewed the landscape plans and had requested two revisions, which should be incorporated into the landscape plan. City code requires that the minimum cost of landscaping materials (live plant material excluding sod) for industrial projects shall be 2 ½ % of the estimated building construction cost based on Means construction data. A detailed planting price list shall be required for verification of the City's 2 ½ % landscaping requirement at the time of submission of plans for a building permit.

The applicant shall identify a bike rack location on their building permit submittal plans for staff approval prior to issuance of a building permit.

Discussion led to the brick design.

Scott Nelson, DJR Architecture, Inc., provided additional information.

Commissioner Scanlan commented that when you look at the Target and Wells Fargo buildings there is a consistency but with this building there is not. He was also concerned with the loss of the plaza that was intended to be there in the original design. If the plaza does not happen he inquired where it could happen because of the original ideas that were in play to have it in that location. He asked if a moratorium on signage could be put on until commercial is built across the street to block the lighting that would face Cobblestone Lake Parkway so the sign lighting does not face residential properties.

Mr. Lovelace said he would leave that up to the Commission. There would be more commercial east of Cobblestone Lake Parkway that would be more of a concern with proximity to the residential areas.

Discussion Followed.

MOTION: Commissioner Diekmann moved, seconded by Commissioner Alwin recommending approval of site plan/building permit authorization to allow for construction of a 9,007-sq. ft. commercial building and 48 surface parking spaces on Lot 4, Block 1, COBBLESTONE LAKE COMMERCIAL; subject to the following conditions:

1. A bike rack shall be installed in front of the building at a location that will not obstruct the use of any sidewalk.
2. The applicant will work with City staff on creating a plaza area on-site or at an alternative location within the Cobblestone Lake development.
3. The snowdrift crabapple and spring snow crabapple trees shall be replaced with a species that is resistant to apple scab disease.

Ayes - 3 - Nays - 1 (Scanlan).

7. OTHER BUSINESS

B. Buller Sketch Plan - Review of proposed subdivision of Buller and Houston properties to create four single family lots with two shared private driveways, located northwest of the intersection of Diamond Path and Evermoor Parkway.

Planner Kathy Bodmer introduced the Sketch Plan Review of a proposed subdivision of two parcels to create four single family lots and one outlot, northwest of the intersection of Diamond Path & Evermoor Parkway on Farquar Lake.

The proposed subdivision would create four new single family lots that meet the minimum requirements of both the "R-1" (Single family, 40,000 min. lot) and "SH" (Shoreland Overlay) zoning districts. One outlot would need to be created for the remaining portion of the Buller property which is currently not included in the sketch, but expected to be combined with the Houston property and subdivided in the future. She summarized some of the issues that would need to be addressed.

Discussion followed.

C. Review of upcoming schedule and other updates.

Community Development Director Bruce Nordquist stated that the next Planning Commission meeting would take place Wednesday, August 20, 2014, 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 Scanlan to adjourn the meeting at 8:49 p.m. Ayes - 4 - Nays - 0.

Respectfully Submitted,

/s/ Joan Murphy
Joan Murphy, Planning Department Assistant

Approved by the Apple Valley Planning Commission on 9/3/14.