

CITY OF APPLE VALLEY
PLANNING COMMISSION MINUTES
NOVEMBER 5, 2014

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 David Schindler.

Members Absent: Tom Melander, and Brian Wasserman.

Staff Present: City Attorney Sharon Hills, Community Development Director Bruce Nordquist, City Planner Tom Lovelace, Planner Margaret Dykes, 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. Hearing none he called for a motion.

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

3. APPROVAL OF MINUTES OCTOBER 15, 2014.

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

MOTION: Commissioner Diekmann moved, seconded by Commissioner Alwin, approving the minutes of the meeting of October 15, 2014. Ayes - 5 - Nays - 0.

4. CONSENT ITEMS

A. Tide Dry Cleaning – Consider amended site plan for 3,255 sq. ft. dry cleaning operation in Time Square Shopping Center. **(PC14-19-B)**

LOCATION: 7562-7564 149th Street West

PETITIONER: CMA Architects and Time Square Shopping Center, LLC.

MOTION: Commissioner Diekmann moved, seconded by Commissioner Alwin, recommending approval of the revised site plan for a 12' x 30' cantilevered canopy and one 12'- wide asphalt drive lane to accommodate valet service at Tide Dry Cleaners, 7540 149th Street W. (Lot 3, Block 1, Levine Subdivision No 2) in the Time Square Shopping Center, as shown on the revised plans received in City offices on October 27, 2014, subject to all applicable City codes and standards, and the following conditions:

- a. The property owner shall execute a maintenance agreement to be prepared by the City Attorney's office for the on-site infiltration area.
- b. The property owner shall apply for a Natural Resources Management Permit prior to beginning any site work.
- c. All exterior building elevations, including signage, shall comply with City Codes.

Ayes - 5 - Nays - 0.

5. PUBLIC HEARINGS

A. Planned Development No. 290 Amendments - Public hearing to consider amendments to PD-290 related to parking lot setbacks. **(PC14-39-Z)**

LOCATION: PD-290

PETITIONER: Merchant's Bank Apple Valley and Goldy P & F, LLC

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

Planner Margaret Dykes stated that Merchant's Bank Apple Valley is in the process of acquiring the former Huntington Learning Center/Metro Dental building at 14990 Glazier Avenue. Merchant's Bank would occupy the area of the building formerly occupied by Huntington Learning Center, while Metro Dental would continue to operate out of its current location in the building.

Merchant's Bank wishes to construct a drive-up window and drive-up ATM on the west side of the parking lot. The site plan shows that a drive-thru lane would be constructed along the west edge of the property. The minimum setback for parking lots in PD-290 from principal and minor arterial roadways, including Cedar Avenue, is 20'. The petitioner requests an amendment to allow for a reduced parking lot setback adjacent to Cedar Avenue due to the fact that additional right-of-way had been taken which impacts their use of the property.

Vice-Chair Burke closed the public hearing at 7:06 p.m.

MOTION: Commissioner Diekmann moved, seconded by Commissioner Alwin, recommending approval of an amendment to PD-290, Zone 1, to allow a 10' parking lot setback adjacent to principle and minor arterials where the ½ right-of-way dedication is a minimum width of 90'. Ayes - 5 - Nays - 0.

B. Dakota County Western Services Center Diesel Generator Exhaust Stack Conditional Use Permit – Public hearing to consider a conditional use permit to allow a 59-foot tall exhaust stack as part of a proposed 290-sq. ft. diesel generator. **(PC14-38-C)**

LOCATION: 14955 Galaxie Avenue

PETITIONER: Dakota County

Vice-Chair Burke opened the public hearing at 7:07 p.m.

Planner Tom Lovelace noted the applicant is requesting approval of a conditional use permit to allow a 59-foot tall exhaust stack as part of a proposed 290-sq. ft. diesel generator at the Dakota County Western Service Center, located at 14955 Galaxie Avenue. The generator would be self-contained and located outside close to the northwest corner of building, approximately 120 feet east of Garrett Avenue. The exhaust stack would be anchored on top of a concrete foundation that would sit one-foot above grade.

The applicant is replacing a 24-year old generator that supplies approximately 50% of the building's emergency power needs. The new generator is sized to accommodate 100% of the building's need and up to 70,000 sq. ft. of future building expansion.

The property is currently zoned "P" (Institutional). This zoning district is intended for public and quasi-public uses such as schools, parks, golf courses, cemeteries, municipal buildings, clubs and lodges, hospitals, nursing homes, convalescent centers, and day-care centers and nurseries as permitted uses. The maximum height allowed within this zoning district is 40 feet. Structures taller than 40 feet are allowed by conditional use.

The height of the exhaust stack is dictated by standards and requirements set forth by the Minnesota Pollution Control Agency and the Environmental Protection Agency. Those agencies require that the exhaust stack be constructed in a manner that would allow it to vent emissions vertically upward without obstruction and be high enough to disperse the exhaust easily.

He reviewed the performance standards adopted by the City and the applicant's plans to provide screening with trees.

Tom Burrows, Dakota County, provided additional information.

Vice-Chair Burke closed the public hearing at 7:16 p.m.

MOTION: Commissioner Scanlan moved, seconded by Commissioner Diekmann, recommending approval of a conditional use permit to allow for a 59-foot tall exhaust stack in conjunction with an emergency diesel generator on Lot 1, Block 1, WESTERN SERVICE CENTER, subject to the following conditions:

- Such operations shall be conducted in conformance with the site plan dated October 8, 2014.
- Such operations shall be conducted in conformance with the planting plan dated October 8, 2014.
- Uses of the stack not associated with the emission of exhaust from the emergency diesel generator shall be strictly prohibited.

Ayes - 5 - Nays - 0.

C. Springs at Apple Valley Apartments – Public hearing to consider a proposed amendment to the 2030 Land Use Map from “C” (Commercial) to “HD” (High Density Residential/+12 units per acre), rezoning and zoning code amendments, and site plan/building permit authorization to allow for 14-building/280-unit apartment complex on 20 acres. **(PC14-40-PZSB)**

LOCATION: Northwest corner of 147th Street West and Flagstaff Avenue

PETITIONER: Continental 313 Fund LLC

Vice-Chair Burke opened the public hearing at 7:18 p.m.

City Planner Tom Lovelace stated there are four requests:

1. Amendment to the 2030 Comprehensive Plan Land Use Map re-designating Outlot B, FISCHER MARKET PLACE from "C" (Commercial) to "HD" (High Density Residential/12+ units per acre).
2. Rezoning of Outlot B, WENSMANN 13TH ADDITION from "Planned Development 746/zone 1" and Outlot B, FISCHER MARKET PLACE from "Planned Development 646/zone 3" to "Planned Development 746 /zone 3", which allow apartments as a permitted use, and shall establish special area requirements and performance standards for the new zone.
3. Subdivision of land by preliminary plat that would combine two existing outlots into one lot.
4. Site plan /building permit authorization to allow for construction a 280-unit apartment project on 20 acres, located between 145th and 147th Streets West, and Foliage and Flagstaff Avenues.

Outlot B, FISCHER MARKET PLACE is currently guided "C" (Commercial). The proposed development is not consistent with the current designation and a re-designation of the outlot to "HD" would be required.

The two outlots are located in two planned development zoning districts. Outlot B, WENSMANN 13TH ADDITION is located in "PD-746 /zone 1". This planned development zone allows for townhomes and condominiums as permitted uses at a maximum density of 16 units per acre. Apartments are not allowed. Outlot B, FISCHER MARKET PLACE is located in "PD-646/zone 3". This planned development zone allows for a variety of general business and some limited retail uses. Again, apartments are not allowed. The property would need to be rezoned. Staff is suggesting that all the property be rezoned to "PD-746" and that a new subzone be created for apartment buildings. This new subzone would include area requirements and performance standards applicable to apartment development.

The subject properties are currently platted as outlots. The applicant is proposing a replat of the two outlots into one lot. Staff has identified several revisions and they should make those necessary revisions.

He reviewed the landscaping, grading, utility and storm sewer plans. He reviewed access to the development. The site would be completely fenced and all accesses would have security gates. He commented that staff expressed their concern about providing only one access in and out for its residents. It has been suggested that the development provide an exit only access for residents

along 145th Street West. The applicant has not indicated if the 145th Street access would be accessible by the residents. The plans show 168 detached and 112 attached garage spaces, and 412 surface parking spaces.

Development of the subject property would include the removal of the temporary cul-de-sac at the east end of Flycatcher Lane. The loss of the cul-de-sac turnaround would affect the ability of emergency vehicles to turn around at the end of that private street. It has been suggested that an emergency access gate be installed at the end of Flycatcher Lane that would be used by emergency vehicles as an exit only from the Midtown development. If that does not happen, an alternative turnaround would need to be installed on the Midtown property.

He commented that the Fire staff had a concern about the location of the emergency access gate along 145th Street West, and requested that it be set back 30 feet from the 145th Street curb line. He addressed building setbacks and that only one trash enclosure is proposed for this development, which would be located northeast of Building 2. This is the only area within the 20-acre complex dedicated for refuse. The applicant should provide evidence that this is sufficient for this type of development. In addition, the applicant should consider constructing the walls enclosure with 100% brick masonry.

Eric Thom, Continental Properties, commented they held a public neighborhood meeting and the three main concerns were the traffic from the site, landscaping between the two developments and the emergency vehicle access between Flycatcher Lane and the development. He provided additional information.

Commissioner Alwin asked if the fence around the development is permitted by City Code.

Mr. Lovelace answered yes.

Commissioner Alwin commented that it is new for Apple Valley but as long as it is permitted by City code it would be up to the developer if they want to install a fence around the development.

Commissioner Scanlan inquired if the developer had any concerns about adding multiple locations for the trash enclosure since the plans only provide for single serve.

Mr. Thom answered that they would like to include a compactor and have the trash picked up twice a week.

Commissioner Scanlan asked if the residents in the farther locations would have to walk or put it in their vehicles to get it to the compactor location.

Mr. Thom answered yes. They try to locate it near the single entrance point and residents drop off the trash on the way out.

Commissioner Scanlan questioned what the plans would be for snow removal with the density of the units.

Mr. Thom said they have not approved a formal snow removal plan yet but feel they could utilize the pipeline easement for snow and they also have other areas snow could be deposited on. They will analyze that more with staff.

Vice-Chair Burke inquired if recyclables would be handled the same way.

Mr. Thom answered that there would be a recyclable area next to the compactor.

Commissioner Diekmann asked where the signage for this facility would be located.

Mr. Thom said this had been discussed with staff. The plans show for three signs and they would need to get down to one sign for the project to be within the guidelines of the City code. There would already be signage on the clubhouse tower which would be building signage.

Commissioner Scanlan inquired how the landscape plan would blend in with the existing units in the other development.

Mr. Thom answered that some of the feedback they received during the neighborhood meeting was that additional landscaping could be added to soften the back of their buildings.

Commissioner Scanlan asked if they allow any type of prairie grass or taller type grasses in that landscaping area.

Mr. Thom said he would need to review the easements himself and the language to see if that is permissible.

Commissioner Scanlan asked if there could be more explanation on the two water holding areas in the front and what the intent is.

Mr. Thom said the intent was to have it more manicured in the front and use it like an older stony pond kind of look where it would drain out and have that pond look year around with a permanent presence.

Vice-Chair Burke inquired if the pedestrian access is something they have done in other properties or if it is unique to this project.

Mr. Thom said they have done them in other properties but not as many. This project is unique because they are surrounded on three sides by public streets. They are providing many more pedestrian access points than they typically do because of the constraints of the site.

Vice-Chair Burke questioned what the issues are still on the table with Flycatcher Lane.

Mr. Thom said he would be happy to hear more from the Midtown Village residents on that. He said originally it was thought that Flycatcher Lane would be a public access but that was never the

intent by them. He thought the Midtown Village residents liked the fence separation between the two developments so as not to share amenities.

Pat McCullough, 14460 Flax Way, questioned if the emergency access off 145th Street W. would be opened in the future if the single planned access on Foliage Avenue gets too much traffic.

Vice-Chair Burke answered that only one access is planned off Foliage Avenue.

Mr. McCullough asked what the City would allow for parking on 145th Street W.

Vice-Chair Burke said the City could check into that.

Mr. McCullough inquired if a signal light would be installed because near Sam's Club that is a busy section and it would become busier with 250 units added in the neighborhood. He expressed concern for the volume of traffic that would be generated. He also asked about the amount of light and bright lights that would be reflected back to the Cedar Isles development.

Commissioner Alwin left the meeting at 8:00 p.m.

Kathy Dean, 14567 Florissant Path, (speaking on behalf of some of the Midtown Village residents) expressed concern for the Flycatcher Lane access and understands that it is only for emergency uses, however, Flycatcher Lane had already been accessed during soil testing and this is an ongoing concern for the Midtown Village residents. She inquired how this would be controlled during the construction phase. She said their snow is stored at the end of Flycatcher Lane and if this was to be used as an emergency access then their development would be required to maintain access and that would put an additional strain on their budget and finances if they have to start hauling snow off the property. She had questions about their private streets and if they could do that. They would like to see an added berm for all seasons to give more privacy for their pool and covered patio areas. She said some of the residents had concerns about the new development being considered upscale rental property site and they did not think the rental rates fall into the class of what their residents consider upscale. There was a concern of the road going over the pipeline.

Commissioner Diekmann asked Ms. Dean to clarify what she meant about the private drive concern and if they can do that.

Ms. Dean said the streets in Midtown Village are private and they maintain them. They have been told that they could simply say that they would not permit use of their private streets but they do not want to do that because they want to be good neighbors. They also have great concerns about their snow and what could possibly happen because they have had people come into their property that are not residents and used their facilities. So with Flycatcher Lane and Florissant Path being private they are not comfortable at all probably for some of the same reasons that the other resident mentioned that at some point are they just going to open that up if they have to maintain some kind of traffic flow that they are not able to accommodate any other way.

Gary Harker, 14587 Florissant Path, commented that one of the big concerns with their residents is the entrance that will be on Foliage. One of Midtown Village's entrances is on Flycatcher Lane. He expressed concern for the volume of traffic exiting on Foliage and traveling to 147th Street and Foliage Avenue which currently is a 2-way stop and they have had their share of accidents there. People use 147th Street W. instead of County Road 42. He would like the main entrance to the new development reconsidered to the Flagstaff Avenue or 145th Street W. to alleviate this problem of this intersection. He feels if this development is built there will need to be something done to the intersection because of the speed of the traffic on 147th Street W. He feels the neighbors are pretty pleased with what is going in there. He stated one of their concerns was the exit/entrance on Flycatcher Lane and asked if residents can or cannot get through there.

Mr. Thom answered that residents cannot get through there and that it was for emergency vehicles only.

Mr. Harker then said that is one of their concerns.

Dawn Skaken, 14587 Florissant Path, had a great concern for the traffic volume and the one entrance. If there is one car per unit that would mean 280 minimum leaving the house once a day and coming home. That would be 560 in and out. If there are two cars per household she sees that as extremely high volume. She asked why there is no entrance on 147th Street W. or Flagstaff Avenue. She expressed concern for the pond and heard that they would be using it for overflow of water. She said they previously had a flood there with a quick rain. She thinks the new complex is very attractive and she does like it but is still concerned with the emergency vehicles access, traffic, noise with the traffic and flooding.

Vice-Chair Burke asked if the holding pond she was referring to was the one to the west.

Ms. Skaken answered yes.

Ed Terhaar, traffic consultant for Continental, reviewed their study which included parking demand, residents and visitors during peak and non-peak hours.

Vice-Chair Burke asked what the distribution was between 145th Street and 147th Street. During the analysis, did more of the traffic go north or did it go south.

Mr. Terhaar answered 40 percent to the north and 60 percent to the south.

Commissioner Scanlan asked for definition of acceptable levels.

Mr. Terhaar said acceptable levels are D or better. Anything lower than that you see significant queing or delays that are unacceptable.

Commissioner Scanlan asked what the study found. Was it the C and D range.

Mr. Terhaar said everything is actually C or better in the AM hours. In the PM everything is D or better.

James Schobel, 14587 Florissant Path, feels the project is a lot for the 20 acres. He expressed concern for the parking above ground where in contrast the Midtown Village project was required to have underground parking in order to keep that open nice look of this City. He said we need to limit how dense it gets in the future and the look of the whole area. He stated that garages are the first to get dented and look bad.

Laurie Fredrickson, Midtown complex, shared her concern for the size of the new project being proposed. She expressed concern for the amount of noise that would be generated from that many people living in a small area and with outdoor amenities it would generate even more noise. She was concerned for the amount of traffic including MVTA buses and school buses that would be at the intersection of 147th Street W. and Foliage Avenue.

Eric Vevea, 14580 Florissant Path, asked if any studies had been done on the stormwater flow. They have had increase because of the impervious surface up on the plateau and he believes that area is dumping stormwater in their direction. Any increase in buildings and parking surfaces of impervious surfaces will increase the flow there and they already have challenges there. He would like to see that studied quite thoroughly. He inquired if any environmental studies were done as to what they are building the pond, the base of the earth underneath, since they have gone down so far previously for the gravel. Where is the ground water in relationship to the development. He also expressed concern for a previous gasoline spill from the storage tanks in the southeast corner. He encouraged that to be looked into as well. He would like the times of construction set and the flow of the construction traffic and would like to see some enforceable penalty if it is not followed. Increased parking creates additional stormwater runoff which is a pollutant and he would like further study done on that.

Scott Groves, 14490 Freesia Way, expressed concern for real estate values. What happens to the real estate values around an apartment complex. He has two properties in the Cedar Isle's development and they have devalued over the last five years. He wonders what this apartment complex will do to further that devaluation. He asked if there had been any studies done on that. He was concerned if crime would increase by putting so many people on this one site. He urged for a study on other properties similar to see if there was an increase in crime.

Vice-Chair Burke commented that as a Planning Commission they deal with planning rules and code but not property values.

Pat McCullough, 14460 Flax Way, inquired when the traffic study was done.

Mr. Terhaar answered that it was done in September 2014 just for this project.

Greg Behnke, 6732 – 145th Street W., expressed concern for the amount of traffic and felt that the multiplier that was used for how many cars that were coming out of the development was like 1.75 per unit. In their development they have a lot of homeowners that have two or three cars per unit.

He felt the traffic study was a little thin with the number of cars that would be associated with each address. He had concern for construction noise and traffic. He commented he understands that the northern portion was already zoned high density but questioned what goes into the planning of the southern portion that is currently zoned commercial and would now be zoned residential. He commented that they were expecting a commercial development to the south that had more of an 8:00 to 5:00 timeline of workers and more quiet after 6:00. It would not have the impact on the residents once they go home. He said that is what a lot of the people were expecting.

Richard Huber, 14587 Florissant Path, had concern that this was being sold to the City as a high end rental facility and he does not believe that all these detached garages represent high end rentals. He thinks it has a tendency to go the other way.

Laura Hanson, 14290 Flora Way, asked how many of these units are designated for Section 8, Section 42, or low income and if that was specified.

Mr. Thom answered that none of them are.

Ms. Hanson commented that as it was originally planned with the high density to the north and commercial to the south, the elementary school age children would go to Greenleaf Elementary, and that school is already past capacity with the addition of full day kindergarten. She said it is definitely something to consider with the effects it will have on Greenleaf with the amount of families with children with rental properties going in. She was concerned with the proposed current emergency exits. If they stay emergency exits they do not necessarily affect people in Cedar Isles. If they become in and out exits then they go right out into their backyards where our children play and slide down the berm. She asked for that to be taken into consideration.

Laurie Fredrickson, Midtown complex resident, commented that the developer stated earlier that they have a thorough screening process for the tenants. One of the selling points for this area of Apple Valley is that it is nice and quiet and it caters to people that would want that sort of environment. She asked the developer how they would be able to assure quality of tenants.

Mr. Thom answered that they have several things they check when a potential tenant comes in. They do an income credit check, a rental history check, and a criminal background check so they have the kind of tenants that everybody expects in a neighborhood.

Commissioner Diekmann asked the traffic engineer, based on his calculations, how many trips does a commercial property generate in this one hour period.

Mr. Terhaar stated he would have to know the square footage of the building.

Commissioner Diekmann said it would be good to get that information as a comparative analysis and the number of additional trips if this south 10 acres was to remain commercial.

Mr. Terhaar said they would need to have some direction on what the use would be because commercial is a pretty broad category.

Commissioner Diekmann said based on the properties along 146th Street as indicated by some residents is important to understand the differences of what is being proposed verses what is actually Comp Plan guided right now.

Commissioner Scanlan asked the applicant that it is their model to focus on the single entry point and they are trying to accommodate for the emergency vehicles but the concern tonight seems to be the traffic and if there could be other options looked at as far as adding a second entry point/exit point to maybe help balance that traffic concern going forward.

Mr. Thom commented he was getting a mixed message because he heard that the single family residents from the north did not want any access from the north of the proposed development.

Commissioner Scanlan said he would have to ask for assistance from staff where it would be optimally considered as to how it would work out the best with their design. He foresees the intersection at 147th Street and Foliage Avenue could be quite congested at certain times.

Vice-Chair Burke asked if there was a spectrum across the country like the age, number of family that would typically end up on a property like this.

Mr. Thom answered that across the country the demographics are different. In general they will see 5 to 10 percent would have school age children. After that there could be more seniors. Usually it is a really good mix between young, professionals, some with families and some empty nesters looking to downsize.

Vice-Chair Burke closed the public hearing at 7:11 p.m.

6. LAND USE/ACTION ITEMS

--NONE--

7. OTHER BUSINESS

A. Review of upcoming schedule and other updates.

Community Development Director Bruce Nordquist stated that the next Planning Commission meeting would take place Wednesday, December 3, 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 Schindler moved, seconded by Commissioner Diekmann to adjourn the meeting at 8:46 p.m. Ayes - 4 - Nays - 0.

Respectfully Submitted,

 /s/ Joan Murphy
Joan Murphy, Planning Department Assistant

Approved by the Apple Valley Planning Commission on 12/3/14 .