

RESOLUTION NO. 7905
A RESOLUTION OF THE CITY OF SHAKOPEE, MINNESOTA,
APPROVING A PLANNED UNIT
DEVELOPMENT (PUD) AMENDMENT TO THE WEST VIERLING ACRES PUD,
THE FINAL PLAT OF WEST VIERLING ACRES THIRD ADDITION, AND A
CONDITIONAL USE PERMIT FOR AN OVER-HEIGHT STRUCTURE

WHEREAS, Dennis Cornelius, applicant, and Hy-Vee, Inc., property owner, have made application for the Planned Unit Development (PUD) Amendment of the West Vierling Acres; PUD and;

WHEREAS, the property upon which the request is being made is legally described as:

Outlots B and D, West Vierling Acres First Addition Scott County, Minnesota ; and

WHEREAS, the City Council approved the West Vierling Acres PUD on June 21, 2016; and

WHEREAS, the Planning Commission of the City of Shakopee reviewed the proposed Planned Unit Development Amendment submitted by Amcon Construction on June 8, 2016 and recommended that the City Council approve the proposed amendment, and

WHEREAS, all required public notices regarding the public hearing for the Planned Unit Development Amendment were duly sent and posted and all persons appearing at the hearing have been given an opportunity to be heard thereon; and

WHEREAS, the City Council of the City of Shakopee did review the Planned Unit Development on August 16, 2016 and adopted the following findings:

Criteria No. 1: Whether the proposed development is consistent in all respect with the comprehensive plan and with this section.

Finding No.1: The comprehensive plan guides the area for high density residential development, which is what the applicant is proposing.

Criteria No. 2: Whether the proposed development, including deviations from design standards of the underlying zones, is compatible with surrounding land uses.

Finding No. 2: The proposed deviation relating to a reduced setback from an arterial roadway is in keeping with the spirit and intent of the zoning ordinance. The traveled path of the roadway is approximately 165' from the proposed building. The proposed reduction in required parking is also in keeping with the intent of the ordinance. The applicant is proposing the development of mostly one-bedroom and studio units for this development, which do not require as many parking spaces per unit.

Criteria No. 3: Whether the proposed development, including deviations from development standards of the underlying zone, provides adequate open space, circulation, parking, recreation, screening, and landscaping.

Finding No. 3: No changes are proposed in regard to landscaping, open space, or screening. Only a setback deviation from development standards is proposed as part of this development.

Criteria No. 4: Whether the primary function of the PUD is to encourage development which will preserve and enhance the worthwhile, natural terrain characteristics and not force intense development to utilize all portions of a given site in order to arrive at the maximum density allowed. In evaluating each individual proposal, the recognition of this objective will be a basic consideration in granting approval or denial.

Finding No. 4: Impervious surface percentages are not proposed to be increased as a result of this development. In this specific case, a PUD is required because of the change in building design from the original PUD, a reduction in required parking, and reduction in building setback.

Criteria No. 5: Whether there exists an overall compatibility of land uses and overall appearance and compatibility of individual buildings to other site elements or to surrounding development. However, the architectural style of buildings shall not solely be a basis for denial or approval of a plan.

Finding No. 5: The ultimate development of the PUD will provide for overall compatibility of land uses, buildings, and other site elements to the surrounding development. An apartment building was approved for this site. The proposed building would be constructed of higher quality materials.

Criteria No. 6: Whether the proposed PUD plan would afford a greater general public benefit than would be realized under the underlying zoning district and/or general zoning provisions.

Finding No. 6: The proposed PUD allows for the flexibility to develop a creative site plan. The proposed PUD also allows for adequate pedestrian circulation to connect to the adjacent residential and park areas.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHAKOPEE, MINNESOTA, AS FOLLOWS:

That the Planned Unit Development West Vierling Acres is hereby approved to allow the development in the following manner:

1. A bike rack rated for a minimum of 10 bikes that meets APBP guidelines must be provided to comply with the West Vierling Acres PUD.
2. Signage must be provided that trucks must not use Harvest Lane.

3. All freestanding signage within the development must be monument style signs and comply with city code standards on height and signage area.
4. Trash and refuse pick up must comply with the noise ordinance for working hours.
5. Trash enclosures must be constructed of the same materials as the principal structures and have a roof.
6. A 30' setback to the southern lot line of the site is permitted.
7. The amount of parking below City Code requirements that is proposed on the submitted plans is acceptable. The applicant must provide the same number of stalls as proposed.
8. The number of units in the apartment building is limited to 133 units.

The following relates to the proposed Final Plat of West Vierling Acres Third Addition

WHEREAS, the subject property is legally described as:

Outlot D, West Vierling Acres First Addition, Scott County, Minnesota ; and

WHEREAS, the Planning Commission of the City of Shakopee held a public hearing and reviewed the preliminary and final plat on August 4, 2016 and recommended that the City Council approve both the preliminary and final plat of West Vierling Acres First Addition; and

WHEREAS, the City Council reviewed the preliminary and final plat of West Vierling Acres First Addition on August 16, 2016

WHEREAS, the applicant has submitted the final plat of West Vierling Acres Third Addition that conforms with the approved preliminary plat; and

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Shakopee, Minnesota that the final plat of West Vierling Acres Third Addition is hereby approved subject to the following conditions:

I) The following procedural actions must be completed prior to the recording of the Final Plat:

1. The name of the plat shall be renamed West Vierling Acres Third Addition
2. Execution of a developer's agreement, which will include provisions for security for public improvements within the subdivision and payment of the Street and Utility Fee and the Watermain Fee.
3. Payment of all Storm Water Management Plan Review Fees need to be made, as required by the most current City of Shakopee Fee Schedule.
4. Payment of the Trunk Sanitary Sewer Charge needs to be made, as required by the most current City of Shakopee Fee Schedule.
5. Payment of the applicable Trunk Storm Water Charge needs to be made, as required by the most current City of Shakopee Fee Schedule.
6. Payment of the Sign Installation Fee needs to be made, as required by the most current City of Shakopee Fee Schedule.
7. Payment of the Bituminous Sealcoat Fee needs to be made, as required by the most current City of Shakopee Fee Schedule.

8. The applicant will submit a detailed contractor's bid for all public improvements associated with this subdivision.
9. The applicant will submit a detailed lot area drawing showing the total plat area, the total drainage and utility easement area encompassing high water levels of publicly maintained storm water basins, the total area of right-of-way, the total area of outlots, the total area of public bituminous street and the total area of each lot.
10. The applicant will need, at a minimum, conditional approval of the subdivision's storm water management plan.
11. Easements will be shown on the final plat as approved by the city engineer. They include, specifically, a minimum of ten feet of drainage and utility easement adjacent to the Harvest Lane right-of-way must be provided.
12. Provide electronic files (AutoCAD and Portable Document Format – PDF) of the final plat to be recorded with datum on the Scott County coordinate system.
13. Payment of park dedication fees in accordance with the current adopted City of Shakopee Fee Schedule.
14. The applicant must coordinate the water service plan for all developable lots with Shakopee Public Utilities.

The following items need to be addressed / completed prior to approval of a grading permit and/or a building permit:

1. Payment of the applicable Trunk Storm Water Charge needs to be made, as required by the most current City of Shakopee Fee Schedule.
2. The applicant will need final approval of the subdivision's storm water management plan.
3. The applicant will obtain a NPDES construction site permit prior to any land disturbing activity. PDFs of the coverage card and letter will be provided to the city.
4. The applicant will submit a detailed impervious surface coverage drawing with each building permit adding impervious surface.
5. The applicant will grade the entire site, as proposed on the approved plans, in one phase within one year from the date of approval of the grading permit application. Grading is defined as bringing the site to the proposed finished grade with materials deemed acceptable by the public works department, providing topsoil per city requirements and applying seed, mulch and/or sod per city requirements and providing an as-built record grading plan per Section 2.5 of the City of Shakopee Design Criteria.
6. The applicant will submit detailed pavement design calculations for the Harvest Lane extension. Refer to City detail 1001 for typical street section.
7. The applicant will line all storm water basins with a minimum of two feet of clay from the bottom to the normal water level. However, the city engineer can allow this requirement to be reduced to one foot if the material meets certain specifications.
8. All riprap must be fieldstone only.
9. Prior to work in the Vierling Drive Right-of-Way, a Right-of-Way permit will be required. Please contact the senior public works technician for details.
10. When available, City Details must be used for proposed improvements.
11. The applicant will seed the city maintained storm water basin area with a native wetland vegetation. The seed mixture, application and maintenance requirements will be determined by the city engineer or their assign.

12. No landscaping will be allowed in drainage and utility easements, unless a detailed plan is submitted clearly showing how all lots will be served by private utilities. All applicable private utility companies will need to review and approve this plan prior to its submittal to the city.
13. As part of the Harvest Lane extension, the applicant will remove the temporary cul-de-sac east of their site and re-grade / replace the driveways of the impacted residential units and provide top soil and establish turf in the appropriate areas.
14. Prior to work in the Adams Street and Vierling Drive rights-of-way, a right-of-way permit will be required. Please contact the senior public works technician for details.
15. Record plans need to be provided per the City of Shakopee Design Criteria, Section 2.5 and Section 11.2 (A-L). The record plans need to be submitted to the public works department.
16. The landscape plan must comply with city details and planting guidelines.
17. The landscape islands in the parking lots must comply with area and soil volume guidelines.
18. Ash, Maple, and Spruce trees do not count toward landscaping requirements due to over-planting and insect / disease issues.
19. All Evergreens planted on the site must be 7'-8' at the time of planting. The quantity of plantings on the site must be at least the number on the proposed landscape plan.
20. The final landscape plan must meet city diversity requirements of a maximum of 10% of one species, 20% of one genus, and 30% of one family.
21. The applicant must comply with the city forestry specifications manual for planting of trees.
22. Financial security for landscaping will be required at the time of building permits.
23. The applicant must develop a plan satisfactory to Shakopee Public Utilities and the Fire Marshal for fire protection around the building.
24. The pedestrian connection to the Hy-Vee store must be re-routed to directly connect to the Hy-Vee pedestrian walkway. This will involve installation of sidewalk on the Hy-Vee property.
25. The applicant must install a pedestrian connection on the west side of the extension of Harvest Lane to connect to the trail along Vierling Drive, and also connection to the pedestrian walkway adjacent to the private drive to the Hy-Vee store from Harvest Lane.
26. The applicant has shown proof of parking on their submitted plans. If the amount of provided parking is not sufficient, additional parking spaces must be provided.
27. Any rooftop mechanical units visible from the ground are required to be screened from view by a means allowed by City Code.

The following relates to the Conditional Use Permit requests for over-height structure:

WHEREAS, proper public hearing notices were sent, published and posted, and on June 8, 2017 a public hearing was held on the requested Conditional Use Permit before the Planning Commission; and

WHEREAS, the Planning Commission reviewed the request and recommended that the City Council approve the proposed conditional use permit for an over-height structure; and

WHEREAS, the City Council reviewed the proposed conditional use permit request for an over-height structure;

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF ADJUSTMENT AND APPEALS OF THE CITY OF SHAKOPEE, MINNESOTA, that it adopts the following findings relative to the request for Conditional Use Permit.

CUP Criteria and Proposed Findings:

Criteria #1 The use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity;

Finding #1: The City Council has not received any evidence that the proposed conditional use will be injurious to the use and enjoyment of other property in the vicinity, if conducted in accordance with proposed conditions. An apartment building with a pitched roof of similar height was approved on this site. The applicant is proposing a flat roof design.

Criteria #2 The amendment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses allowed in the area;

Finding #2: The City Council finds that the approval of the conditional use permit will not impede the normal and orderly development and improvement of surrounding property.

Criteria #3 Adequate utilities, access roads, drainage, and other necessary facilities have been or will be provided;

Finding#3: The City Council finds that adequate utilities, access, drainage and other necessary facilities have been or will be provided for the site. The proposed conditional use permit is strictly to be 1' taller than the zoning code allows.

Criteria #4 The use is consistent with the purposes of the zone in which the applicant intends to locate the proposed use; and

Finding #4 The Board finds that this use is consistent with the purposes of the High Density Residential (R-4) Zone.

Criteria #5 The use is not in conflict with the Comprehensive Plan.

Finding #5 The Board finds that the use is not in conflict with the Comprehensive Plan. The site is guided for High Density Residential Development.

BE IT FURTHER RESOLVED, that the Conditional Use Permit to allow an over-height structure is approved subject to the following conditions:

1. Development of the apartment building must be generally consistent with the submitted plans and recommended conditions.
2. Building design and materials must be generally consistent with the submitted plans.
3. A landscaped berm with slopes no greater than 3:1 (horizontal:vertical) must be provided east of the proposed parking lot of the apartment building at the time of development. The berm must not encroach into drainage and utility easements and be at least 4' in height and have top soil that complies with City Code requirements for organic material and depth.

**Adopted in _____ session of the City Council of the City of Shakopee, Minnesota,
held on the ____ day of _____, 2017.**

Mayor of the City of Shakopee

ATTEST:

Lori Hensen, City Clerk

PREPARED BY:
City of Shakopee
129 Holmes Street South
Shakopee, MN 55379