

April 1, 2026, Planning Commission Meeting Agenda



7:00 PM

Apple Valley Municipal Center
7100 147th Street West, Apple Valley

1. Call To Order
2. Approve Agenda
3. Consent Agenda

Consent Agenda Items are considered routine and will be enacted with a single motion, without discussion, unless there is a request to have any item separately considered. It will then be moved to the regular agenda for consideration.

 - A. Approve Minutes of March 18, 2026, Regular Meeting
4. Public Hearings
 - A. Moe's Southwest Grill Conditional Use Permit and Variance for Class II Restaurant in the RB - Retail Business zoning district
5. Land Use / Action Items
6. Other Business
 - A. Review of Upcoming Planning Commission and City Council Meetings and Other Updates
7. Adjourn

Regular meetings are broadcast live on Charter Communications Cable Channel 180 and on the City's website at www.AppleValleyMN.gov.



ITEM:
MEETING DATE:
SECTION:

3.A.
April 1, 2026
Consent Agenda

Description: Approve Minutes of March 18, 2026, Regular Meeting	
Staff Contact: Breanna Vincent, Department Assistant	Department / Division: Community Development

Action Requested:
Approve minutes of the regular meeting of March 18, 2026.

Summary:
The minutes of the regular Planning Commission meeting is attached for your review and approval.

Background:
State statute requires the creation and preservation of meeting minutes which document the official actions and proceedings of public governing bodies.

Budget Impact:
N/A

Attachments:
1. March 18, 2026 PC Minutes

City of Apple Valley
March 18, 2026, Planning Commission Regular Meeting Minutes

Minutes of the regular meeting of the Planning Commission of Apple Valley, Dakota County, Minnesota, held March 18, 2026, at 7:00 p.m., at the Apple Valley Municipal Center.

Present: Kurtz, Scanlan, Mahowald, Sandahl, Prewitt

Absent: Schindler, Hlas

City staff members present were: Community Development Director Benetti, City Attorney Hills, City Planner Dill, Assistant City Engineer Acosta, and Department Assistant Vincent.

1. Call to Order

Chair Kurtz called the meeting to order at 7:00 p.m.

2. Approve Agenda

Chair Kurtz asked if there were any changes to the agenda. CD Director Benetti noted that an updated agenda had been provided to the Commissioners with the two public hearings separated under item 4. A.

Motion: of Sandahl, seconded by Scanlan, approving the agenda including the updated agenda. Ayes - 5 - Nays - 0.

3. Consent Agenda

Motion: of Scanlan seconded by Sandahl, approving the minutes of March 4, 2026, regular meeting. Ayes - 5 - Nays - 0.

4. Public Hearings

A. Apple Valley Technology Park (Data Center) Project – Oppidan Development

Chair Kurtz opened the public hearing for the Conditional Use Permit and the continuation of the public hearing from February 5, 2025, regarding the Rezoning, Preliminary Plat, and Site Plan Building Permit Authorization.

CD Director Benetti provided a brief presentation.

Pete Carbonneau (Oppidan Development) was present for any questions.

With no comments from commissioners or the public on either public hearing, Chair Kurtz closed the public hearings.

Motion: of Scanlan, seconded by Sandahl, to recommend denial of the conditional use permit for the proposed Apple Valley Technology Park (data center campus), as requested under Planning Application case No. PC24-23-BCSZ, with findings noted in the attached draft resolution for City Council consideration and final action. Ayes - 5 - Nays - 0.

Motion: of Mahowald, seconded by Scanlan, to recommend denial of the proposed preliminary plat of Apple Valley Technology Park as requested under Planning Application Case No. PC24-23-BCSZ with findings noted in the attached draft resolution for City Council consideration and final action. Ayes - 5 - Nays - 0.

Motion: of Mahowald, seconded by Scanlan, to recommend denial of the site plan and building permit authorization for the proposed Apple Valley Technology Park (data center campus), as requested under Planning Case No. PC24-23-BCSZ with findings noted in the attached draft resolution for City Council consideration and final action. Ayes - 5 - Nays - 0.

6. Land Use/Action Items

None

7. Other Business

The next Planning Commission meeting is scheduled for Wednesday, April 1, 2026, 7:00 p.m. The next City Council meeting is Thursday, March 26, 2026, at 7:00 p.m.

8. Adjourn

Motion: of Scanlan, seconded by Sandahl, to adjourn. Ayes - 5 - Nays - 0.

The meeting was adjourned at 7:23 p.m.

Respectfully submitted,

Breanna Vincent, Department Assistant

Approved by the Apple Valley Planning Commission on April 1, 2026.





ITEM:
MEETING DATE:
SECTION:

4.A.
April 1, 2026
Public Hearings

Description: Moe's Southwest Grill Conditional Use Permit and Variance for Class II Restaurant in the RB - Retail Business zoning district	
Staff Contact: Carter Hayes, Planner	Department / Division: Community Development

Action Requested:

Open the public hearing, receive comments, and close the public hearing. It is the policy of the Planning Commission not to take action on the same night as its public hearing. However, if there are no outstanding comments or concerns, and the Commission concurs, staff is recommending the following:

Recommend approval of a resolution approving a Conditional Use Permit and Variance to operate a Class II restaurant in an RB - Retail Business zoning district and attaching conditions

Summary:

The applicant, Catch a Cloud Solutions, LLC, d/b/a Moe's Southwest Grill, and DeltaV-AV, LLC, as property owner, are requesting a Conditional Use Permit and a Variance to allow a Class II restaurant in an existing tenant space at 7668 150th St W Suite 301, in the RB - Retail Business zoning district.

Moe's Southwest Grill is a fast-casual Tex-Mex restaurant chain that would be classified as a Class II fast food restaurant under the City's Zoning Code. Under City Code 155.157 (H), Class II restaurants are a conditional use in the RB - Retail Business zoning district, and are not allowed when located closer than 1,000 feet to a residential or institutional use. This restaurant location is approximately 80 feet from the nearest institutional use, Grace Lutheran Church, situated directly to the west of the subject property at 7800 County Road 42; and approximately 275 feet from the nearest residential use situated generally southwest and across from Pennock Lane. The proximity of these institutional and residential uses requires the consideration of both a Conditional Use Permit and a Variance to the 1,000 ft separation requirements provided in City Zoning Code standards.

Conditional Use Permit:

The applicant is requesting a Conditional Use Permit to operate a Class II restaurant at 7668 150th Street W. within the RB - Retail Business zoning district, as required under City Code 155.157(H).

To provide the flexibility necessary to achieve the goals of the Comprehensive Plan, the City Code allows for conditional uses that are appropriate only under specific circumstances. The 2040

Comprehensive Plan notes that a resident survey identified dining and retail variety as a community priority in the downtown.

The Zoning Code sets specific standards for conditional uses that a proposed use must meet. Staff has prepared findings for the Conditional Use Permit addressing the standards in Section 155.399(D) of the City Code:

1. The proposed conditional use will not be detrimental to or endanger the public health, safety, or general welfare of the neighborhood or the city. The Class II Restaurant is a use contemplated by the RB – Retail Business zoning district and will be subject to applicable city and state regulations, including health and safety requirements.
2. The proposed conditional use will be harmonious with the general and applicable specific objectives of the Comprehensive Plan and code provisions. The property is zoned RB – Retail Business and guided Commercial in the 2040 Comprehensive Plan, which supports retail and service uses in this area.
3. The proposed conditional use will be designed, constructed, operated, and maintained so as to be compatible or similar in architectural and landscape appearance with the existing or intended character of the general vicinity and will not change the essential character of the area nor substantially diminish or impair property values within the neighborhood. The use will occupy an existing tenant space within a multi-tenant retail building, will not include a drive-through, and will utilize the existing site features and layout.
4. The proposed conditional use will be served adequately by existing essential public facilities and services, including streets, utilities, and other public services. The site is already served by existing streets, utilities, and other public services.
5. The proposed conditional use will not involve activities, processes, materials, equipment, or conditions of operation that will be hazardous or detrimental to any persons, property, or the general welfare due to excessive traffic, noise, smoke, fumes, glare, or odors. The use will be subject to applicable state and local performance standards and operational requirements.
6. The proposed conditional use will have vehicular ingress and egress that does not create traffic congestion or interfere with surrounding streets. The site already has existing access and the development provides adequate off-street parking for the proposed use and existing tenants.
7. The proposed conditional use will not result in the destruction, loss, or damage to any natural, scenic, or historic feature of major importance. The proposed use will occupy an already existing retail tenant space and will not impact any known natural, scenic, or historic resources.

In reviewing applications for conditional use permits, the Planning Commission and the Council may attach whatever reasonable conditions they deem necessary to mitigate anticipated adverse impacts associated with these uses. Staff is recommending the following conditions of approval:

1. The CUP applies to the tenant space at 7668 150th Street W., Suite 301, legally described as Lot 1, Block 1, Apple Valley Square Second Addition.
2. The property shall remain in compliance with the landscaping plan approved on November 12, 2020, and any dead or diseased plantings shall be replaced in kind to maintain screening from adjacent residential and institutional uses.

3. Site uses shall comply with minimum parking requirements; overall tenant occupancy may be limited due to parking constraints.
4. The restaurant's mechanical exhaust system shall be equipped with filtration or venting directed east, away from neighboring residential and institutional properties to the west.
5. If the use allowed by the CUP is not completed or utilized within one year of approval, the permit shall become null and void.
6. No drive-through service is permitted.
7. The CUP may be revoked for cause if any of the preceding conditions are not adhered to.

Variance:

The applicant is requesting a variance of 920 feet to the 1,000-foot separation requirement from residential and institutional uses established under City Code 155.157(H), reducing the separation to approximately 80 feet from the nearest institutional use, Grace Lutheran Church, located at 7800 County Road 42, and approximately 275 feet from the nearest residential use, as measured from property line to property line.

The City has an established record of granting setback variances to Class II restaurant uses in the RB – Retail Business zone, particularly along significant roadway corridors such as CSAH 42 (150th Street W.) or CSAH 23 (Cedar Ave). The three most recent approvals include:

- Popeyes (7575 153rd St W.) - 494' Setback
- Chick-fil-A (7480 153rd St W.) - 150' Setback
- McDonald's (15460 English Ave.) - 200' Setback

Historically, the City has also granted similar variances to other nearby Class II restaurant operators, including Panda Express, Bruegger's Bagels, Dave's Hot Chicken (formerly Dairy Queen), and Taco Bell. A map identifying the location and details of prior variance approvals is attached.

When requesting a variance, the applicant bears the burden of demonstrating that a practical difficulty exists to justify the request. The applicant has submitted a narrative addressing each of the five variance criteria, which is attached for reference. While the narrative notes a separation distance of approximately 97 feet, staff's measurement indicates the actual distance is 80 feet, resulting in a required variance of 920 feet rather than the 903.1 feet cited by the applicant.

Staff has prepared practical difficulty findings, which are listed below. These findings address the variance criteria and provide additional pertinent considerations relevant to the request.

1. Special conditions apply to the land or structure that are particular to the property and do not apply generally to other land or structures in the district or vicinity in which the land is located. The subject property is a corner commercial site at County Road 42 and Pennock Lane with an existing multi-tenant commercial building. In combination, the site location, existing development pattern, and proximity of nearby property lines create conditions particular to the property.
2. The variance is consistent with the intent of the zoning ordinance. The area is zoned RB – Retail Business, intended to accommodate a range of retail and service uses. The intent of the separation standard is met through roadway separation, placement of the restaurant in

the furthest east tenant space, the absence of drive-through service, and existing landscape screening.

3. The conditions were not created by the applicant. The site location, adjacent land uses, roadway separation, and existing building layout are pre-existing conditions not caused by the applicant.
4. The variance is needed to alleviate practical difficulties and is not merely a convenience. Strict application of the separation requirement creates a practical difficulty because the request involves an existing tenant space within an already constructed multi-tenant commercial building on a site with fixed lot lines and established surrounding properties.
5. The variance requested is the minimum necessary. The request is limited to the minimum needed to allow the Class II Restaurant in the existing tenant space, which is the furthest from the adjacent residential and institutional uses.
6. The 2040 Comprehensive Plan designates this area Commercial, and is intended to accommodate a wide range of goods and service retailers.
7. The setback separation distance from a Class II restaurant to a residential or institutional use is measured from property line to property line.
8. The closest institutional property is 80 feet from the property line of the Class II Restaurant.
9. The closest residential property is 275 feet from the property line of the Class II Restaurant.
10. No drive-through service is permitted and shall not be utilized.
11. The landscaping plan for the overall retail development, approved on November 12, 2020, utilizes a combination of coniferous and spreading shrubs to provide screening from the nearby residential and institutional uses.

Staff recommends the following conditions of approval for the proposed Variance:

1. The variance to allow a Class II Restaurant to be located less than 1,000 feet from a residential or institutional use shall apply to the property located at 7668 150th Street West, Suite 301, legally described as Lot 1, Block 1, Apple Valley Square Second Addition.
2. The property shall remain in compliance with the landscaping plan approved on November 12, 2020. Any dead or diseased plantings shall be replaced in kind to ensure continuous screening from adjacent residential and institutional uses.
3. Site uses shall comply with minimum parking requirements. Potential users in the multi-tenant building may be limited due to parking constraints and overall site parking requirements.
4. The restaurant's mechanical exhaust system shall be equipped with filtration or venting directed east, away from neighboring residential and institutional properties to the west.

Background:

The subject property is an existing three-tenant retail building located at 7668 150th Street W. (Pennock Center), constructed following City Council approval on November 14, 2019, and a one-year extension granted on November 12, 2020. The building was approved as a three-tenant retail center, with one tenant currently operating as a Class III Restaurant with a drive-through, and the remaining tenant operating as a personal services user (laser hair removal).

The current application requests approval for a Class II Restaurant to occupy the easternmost existing tenant space within the building.

Budget Impact:

N/A

Attachments:

1. Resolution
2. Location Map
3. Zoning Map
4. Applicant Narrative
5. Moe's Southwest Grill Floorplan
6. Class II Restaurant Variances Map

City of Apple Valley
Resolution No. 2026-

A Resolution approving a Conditional Use Permit and Variance to operate a Class II Restaurant in an RB - Retail Business zoning district and attaching conditions

Whereas, pursuant to Minnesota Statutes 462.357, the City of Apple Valley has adopted, as Title XV of the City Code of Ordinances, zoning regulations to control land uses throughout the City; and

Whereas, Section 155.157(H) of the City Code identifies Class II Restaurants as a conditional use within the RB - Retail Business zoning district when located no closer than 1,000 feet from any residential or institutional use; and

Whereas, Catch a Cloud Solutions, LLC has submitted an application for approval of a Conditional Use Permit for Moe's Southwest Grill, a Class II Restaurant, on property located at 7668 150th Street West and legally described as Lot 1, Block 1, Apple Valley Square Second Addition; and

Whereas, Catch a Cloud Solutions, LLC has submitted an application for approval of a Variance to the 1,000 feet separation distance between a Class II Restaurant and a residential or institutional use; and

Whereas, the applicant has requested a 920 ft. variance to the 1,000 ft. separation from a residential or institutional use, allowing them to be 80 feet from an institutional use and approximately 275 feet from the closest residential use; and

Whereas, on April 1, 2026, a public hearing was held before the Apple Valley Planning Commission for the Conditional Use Permit and Variance requests to determine its conformance with the applicable regulations and performance standards; and

Whereas, on April 1, 2026, the Apple Valley Planning Commission recommended approval of Conditional Use Permit and Variance subject to certain conditions.

Now, therefore, be it resolved that the City Council of Apple Valley finds that the Conditional Use Permit meets the standards of Section 155.399(D) of the City Code based on the following findings:

1. The proposed conditional use will not be detrimental to or endanger the public health, safety, or general welfare of the neighborhood or the city. The Class II Restaurant is a use contemplated by the RB – Retail Business zoning district and will be subject to applicable city and state regulations, including health and safety requirements.

2. The proposed conditional use will be harmonious with the general and applicable specific objectives of the comprehensive plan and code provisions. The property is zoned RB – Retail Business and guided Commercial in the 2040 Comprehensive Plan, which supports retail and service uses in this area.
3. The proposed conditional use will be designed, constructed, operated and maintained so as to be compatible or similar in an architectural and landscape appearance with the existing or intended character of the general vicinity and will not change the essential character of that area, nor substantially diminish or impair property values within the neighborhood. The use will occupy and existing tenant space within a multi-tenant retail building, will not include a drive-through, and will utilize the existing site features and layout.
4. The proposed conditional use will be served adequately by existing essential public facilities and services. The site is already served by existing streets, utilities, and other public services.
5. The proposed conditional use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be hazardous or detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors. The use will be subject to applicable state and local performance standards and operational requirements.
6. The proposed conditional use will have vehicular ingress and egress to the property which does not create traffic congestion or interfere with traffic on surrounding public streets. The site already has existing access and the development provides adequate off-street parking for the proposed use and existing tenants.
7. The proposed conditional use will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance. The proposed use will occupy an already existing retail tenant space and will not impact any known natural, scenic, or historic resources.

Be it further resolved by the City Council of the City of Apple Valley, Dakota County, Minnesota, that a Conditional Use Permit for a Class II Restaurant within an RB-Retail Business zone be approved subject to compliance with all applicable City codes and standards, and the following conditions:

1. The Conditional Use Permit for a Class II Restaurant shall apply to the tenant space located at 7668 150th Street West, Suite 301, and on the property legally described as Lot 1, Block 1, Apple Valley Square Second Addition.
2. The Property shall remain in compliance with the landscaping plan approved on November 12, 2020. Any dead or diseased plantings shall be replaced in kind to ensure continuous screening from adjacent residential and institutional uses.
3. Site uses shall comply with minimum parking requirements. Potential users in the multi-tenant building may be limited due to parking constraints and overall site parking requirements.
4. The restaurant's mechanical exhaust system shall be equipped with filtration or venting directed to the east as to be directed away from the neighboring residential and institutional properties to the west.
5. If the use allowed by the Conditional Use Permit is not completed or utilized within one (1) year of the date of approval, the permit shall become null and void.
6. No drive through window service is permitted and shall not be utilized.
7. The Conditional Use Permit may be revoked for cause if the terms of (1) through (6) preceding are not adhered to.

Be it further resolved by the City Council of Apple Valley that a Variance to allow a Class II Restaurant to be located less than 1,000 feet from a residential or institutional use is granted, based on the following practical difficulty findings:

1. Special conditions apply to the land or structure that are particular to the property and do not apply generally to other land or structures in the district or vicinity in which the land is located. The subject property is a corner commercial site at County Road 42 and Pennock Lane with an existing multi-tenant commercial building. In combination, the site location, existing development pattern, and proximity of nearby property lines create conditions particular to the property.
2. The variance is consistent with the intent of the zoning ordinance. The area is zoned RB – Retail Business, intended to accommodate a range of retail and service uses. The intent of the separation standard is met through roadway separation, placement of the restaurant in the furthest east tenant space, the absence of drive-through service, and existing landscape screening.
3. The conditions were not created by the applicant. The site location, adjacent land uses, roadway separation, and existing building layout are pre-existing conditions not caused by the applicant.

4. The variance is needed to alleviate practical difficulties and is not merely a convenience. Strict application of the separation requirement creates a practical difficulty because the request involves an existing tenant space within an already constructed multi-tenant commercial building on a site with fixed lot lines and established surrounding properties.
5. The variance requested is the minimum necessary. The request is limited to the minimum needed to allow the Class II Restaurant in the existing tenant space, which is the furthest from the adjacent residential and institutional uses.
6. The 2040 Comprehensive Plan designated this area Commercial, which is intended to accommodate a wide range of goods and service retailers.
7. The setback separation distance from a Class II restaurant to a residential or institutional use is measured from property line to property line.
8. The closest institutional property is 80 feet from the property line of the Class II Restaurant.
9. The closest residential property is 275 feet from the property line of the Class II Restaurant.
10. No drive through window service is permitted and shall not be utilized.
11. The landscaping plan for the overall retail development, approved on November 12, 2020, utilizes a combination of coniferous and spreading shrubs to provide screening from the nearby institutional and residential uses.

Be it further resolved by the City Council of Apple Valley that a Variance to allow a Class II Restaurant to be located less than 1,000 feet from a residential or institutional use is granted, subject to the following conditions:

1. The Variance to allow a Class II Restaurant to be located less than 1,000 feet from a residential or institutional use shall apply to the Property located at 7668 150th Street West, Suite 301, legally described as Lot 1, Block 1, Apple Valley Square Second Addition.
2. The Property shall remain in compliance with the landscaping plan approved on November 12, 2020. Any dead or diseased plantings shall be replaced in kind to ensure continuous screening from adjacent residential and institutional uses.
3. Site uses shall comply with minimum parking requirements. Potential users in the multi-tenant building may be limited due to parking constraints and overall site parking requirements.

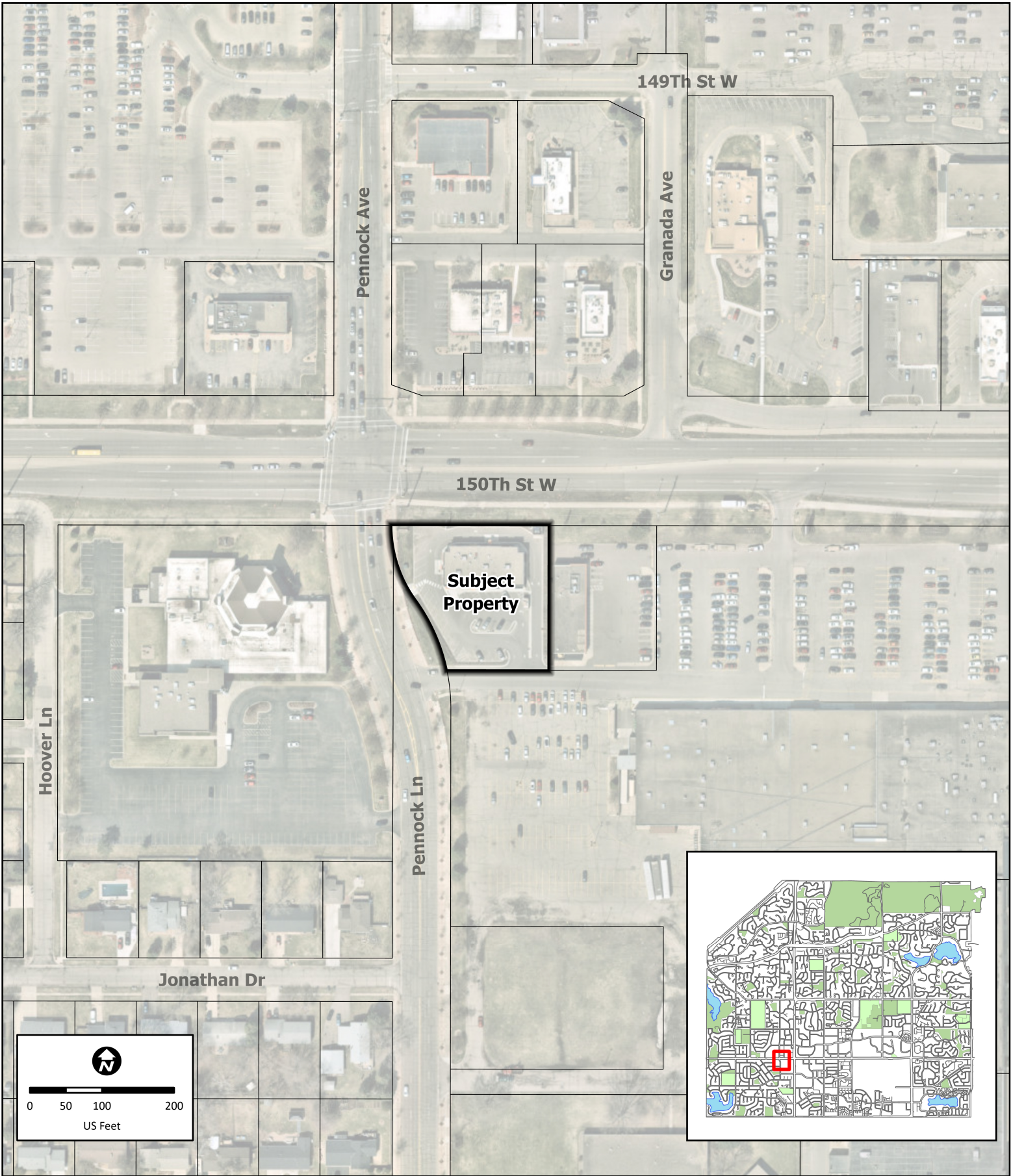
4. The restaurant's mechanical exhaust system shall be equipped with filtration or venting directed to the east as to be directed away from the neighboring residential and institutional properties to the west.
5. If the variance is not made use of within one (1) year of the date of approval, the permit shall become null and void.
6. No drive through window service is permitted and shall not be utilized.

Adopted this day of April, 2026.

Clint Hoopaw, Mayor

Attest:

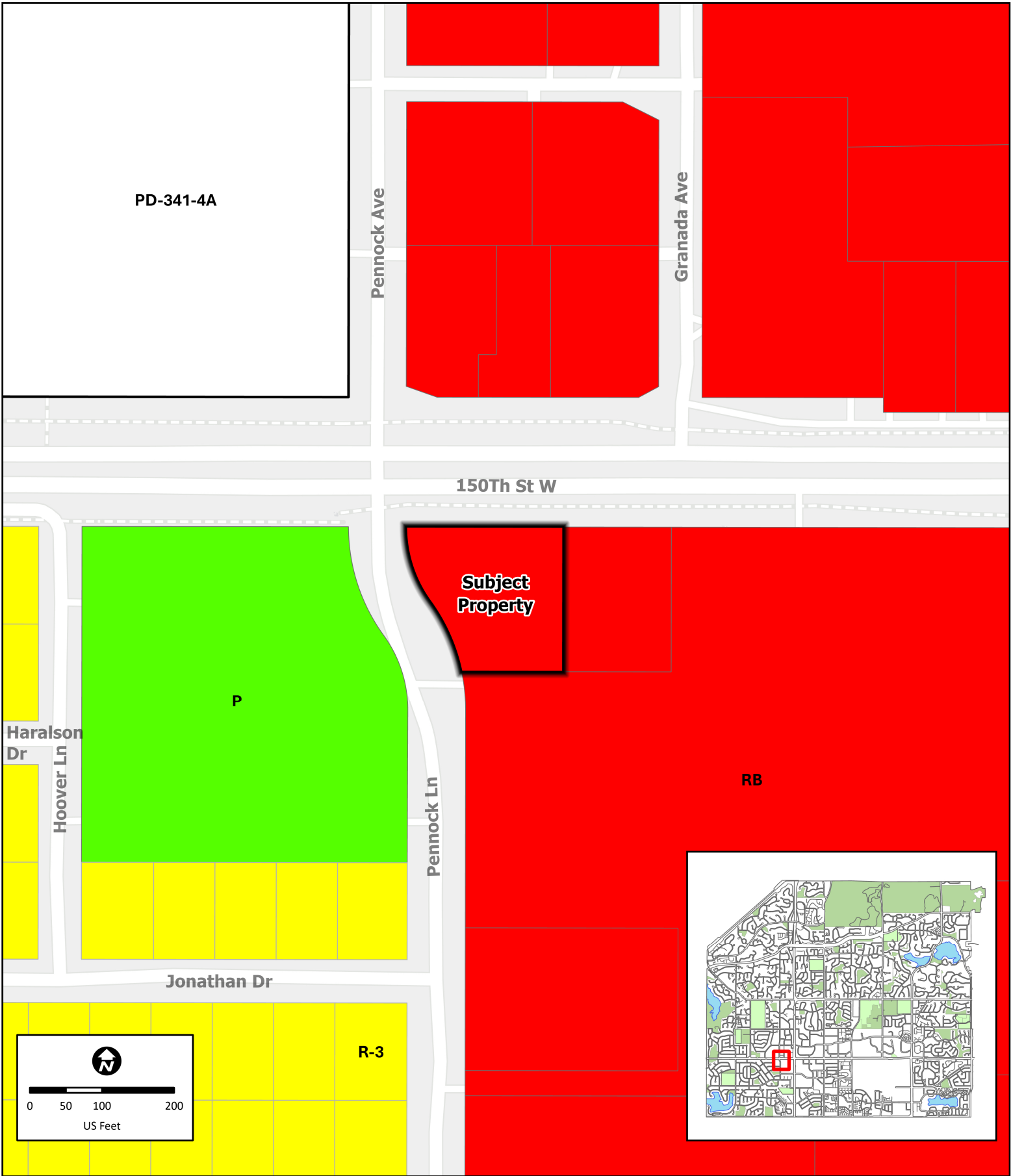
Christina M. Scipioni, City Clerk



Location Map

City of Apple Valley

7668 150th St. W.



LISA MCCORMICK
Attorney at Law

March 4, 2026

City of Apple Valley
Attn: Carter Hayes, Planner
7100 147th St W
Apple Valley, MN 55124

Re: Moe's SW Grill Planning Application for CUP & Variance

Dear Mr. Hayes:

I represent DeltaV-AV, LLC ("Owner") of the commercial property located at 7668 150th St W, the southeast corner of the intersection of Co Rd 42/150th St W and Pennock Avenue in the City of Apple Valley. The parcel is zoned "RB" (Retail Business), and currently improved as a multi-tenant commercial building, which was constructed in 2021. At only 0.84 acres, it was a challenging site to redevelop and in 2019, was granted a conditional use permit at that for a Class III coffee shop with a drive-thru, and variances for building and parking setbacks due to the lot size.

The Owner is seeking approval of a conditional use permit for a Class II restaurant (without a drive-thru or pick-up window); and a variance to the setback requirements for Class II restaurants. This letter is intended to provide a summary of the Project and the required findings under the City's Code of Ordinances ("Code").

1. Description of the Property and Project Summary

As described above, this property was redeveloped and received entitlements in 2019 due to challenges related to the parcel size and configuration, with improvements completed in 2021. The multi-tenant building has been fully leased and stable for the past several years but now have vacancy after the tobacco shop closed. We are now seeking to place a new tenant, Moe's SW Grill, in the east end-cap of the building.

Moe's SW Grill, a fast-casual Mexican-style restaurant chain featuring Tex-Mex inspired menu items such as burritos, bowls, quesadillas, nachos, tacos, salads, and sides, offering a fresh new concept to the metro area which also offers catering. No alcohol is served or sold onsite and it will not have a drive-thru or pick-up window. It will be onsite dining or take-out only. Hours of operation will be from 10:00 a.m. to 11:00 p.m. and will primarily focus on lunch and dinner. These hours of operation work well to mediate internal traffic flow at this location because the building is also occupied by Dunkin'/Baskin, whose peak hours are early morning.

The parcel is located within on the edge of the Downtown Ring Route, zoned "RB" (Retail Business) identified in the 2040 Comprehensive Plan as guided for Commercial and Retail uses. Referenced in the 2040 Comprehensive Plan were the results of a public survey conducted in early 2017 in which survey participants indicated that dining and retail variety were needed in Apple Valley. The parcel is

immediately surrounded by RB commercial uses to the north, east and south, and directly to the west across Pennock Avenue, is Grace Lutheran Church, which is zoned as an “Institutional Use”. To the south and west of the church are residential R3 single family homes. Because this institutional use along with the residential use is within 1000 feet of the proposed Project, we are seeking a variance of the setback related to Class II restaurants.

2. Request for Variance from Section 155.157(H) of City Code.

(i) Special conditions apply to the structures or land in question that are particular to the property and do not apply generally to other land or structures in the district or vicinity in which the land is located.

A variance to the 1000 foot institutional and residential setback requirement is appropriate; enforcement of the zoning ordinance as applied to the property creates practical difficulties and all associated impacts are able to be mitigated through the existing site design and/or operational controls.

Under Section 155.157(H) of the City of Apple Valley Code, Class II restaurants are conditional uses within the RB district when located no closer than 1000 feet from any residential or institutional use. The strict application of the ordinance prohibits the use of the Property for any Class II fast food restaurant, even though the comprehensive plan contemplates the use and the property and survey participants have asked for more dining options in the downtown area. Having been recently redeveloped, the site design and operational controls are able to mitigate any concerns. While each variance is unique, as recently as 2025, the City has previously granted several variances to this standard for Class II restaurants so this request will not create any sort of precedent.

Measuring from property line to property line, from the northwest corner of the Property to the northeast corner of the Church across Pennock Avenue, the shortest distance is approximately 96.9 feet; and approximately 135.5 feet directly west of the southwest corner of the Property. The nearest residential property would be 274.6 feet from the northeast corner of a single-family home located at 815 Jonathon Drive to the southwest corner of the Property. Although the residential use is almost 300 feet from the Property, The practical setback variance required due to the proximity of the institutional use is 903.1 feet. The Owner respectfully requests approval of a variance to the 1000-foot requirement based on the findings outlined herein.



Approximate distances using Dakota County GIS map



(ii) *The granting of the proposed variance will not be contrary to the intent of this chapter.*

The Owner proposes to use the Property in a reasonable manner not permitted by the zoning ordinance, and granting the variance is not contrary to the purpose and intent of the zoning ordinance. The 1000 foot buffer was implemented to mitigate noise, lighting and odor impacts on residential neighborhoods. Here, noise, lighting, and internal traffic will be well managed by the existing site design. Noise and odor generation will comply with Minnesota law. As mentioned above is comprised of only 0.84 acres and is burdened by multiple easements making it a challenge to redevelop. Given these constraints, the size of the building is at its maximum and able to accommodate only three tenants while meeting or exceeding the required parking needed. The number of parking stalls required for this site is essentially the same or less than that for a retail use. Because there is no additional drive-thru or pick-up window, this use will have an imperceptible impact on the neighboring properties.

Granting the variance is consistent with the 2040 Comprehensive Plan and uses contemplated by the RB zoning district. Granting the variance is also consistent with other existing Class II restaurants operating in the City such as Chick-fil-A, Culvers, McDonalds and Seven Brew Coffee that are adjacent or close to residential uses that have successfully addressed the goals of the City Code.

(iii) The special conditions or circumstances do not result from the actions of the owner/applicant.

As mentioned above, the proposed use is consistent with the guidance outlined in the 2040 Comprehensive Plan. Permitted uses in the RB zoning district that could have similar impacts as the proposed use include retail shopping centers, and retail uses including personal services, catering establishments, hardware, hobby shops, laundry and drycleaning pick up, grocery, off-sale liquor stores and theatres, all supportive services for the nearby community.

Also mentioned above are the multiple easements that burden the Property. Because it is bordered on the west and north by roadways, there are easements related to the right-of-way. There is also a sewer main that crosses the Property for which a drainage and utility easement was given.

(iv) The granting of the variances will not merely serve as a convenience to the applicant, but is necessary to alleviate practical difficulties in complying with the zoning provisions of this Code..

The proposed use will not alter the essential character of the local area. Directly across the street from the church, the church provides somewhat of a buffer between the Property and the residential area which also lies across the street. With this and the Property being adjacent to the higher intensity retail in Apple Valley Square Shopping Center, the impacts related to this use are negligible while providing a service that survey participants requested.

(v) The variances requested are the minimum variance necessary to alleviate the practical difficulty.

The variance requested in the minimum variance necessary to alleviate the practical difficulty.

3. Request for Conditional Use Permit for Class II Restaurant in RB district.

The proposed use complies with the CUP standards set forth in Section 155.399(D) of the City Code. As such, the Planning Commission shall recommend a conditional use permit for Council approval so long as the following requirements are met. The Project/proposed use meets the requirements of the City Code.

- i. *Moe's SW Grill's proposed use and operations will not impact or be detrimental to or endanger the public health, safety, or general welfare of the neighborhood or the city.*

The Project is consistent with the public health, safety, and welfare because it adheres to the standards and regulations set forth by the City relating to and including but not limited to noise, traffic and odor, as well as state regulations governing food establishments through plan review and inspections prior to opening for business. Class II restaurants are specifically contemplated by the RB District and the project will not adversely affect the surrounding community.

- ii. *Will be harmonious with the general and applicable specific objectives of the comprehensive plan and code provisions.*

The parcel is located within on the edge of the Downtown Ring Route, zoned "RB" (Retail Business) identified in the 2040 Comprehensive Plan as guided for Commercial and Retail uses. Referenced in the 2040 Comprehensive Plan were the results of a public survey conducted in early 2017 in which survey participants indicated that dining and retail variety were needed in Apple Valley.

- iii. *Will be designed, constructed, operated and maintained so as to be compatible or similar in an architectural and landscape appearance with the existing or intended character of the general vicinity and will not change the essential character of that area, nor substantially diminish or impair property values within the neighborhood.*

This project is intended to occupy a vacancy within an existing 3-tenant commercial building. It will not have a drive-thru or pick-up window so it will be enclosed within the existing building except for some outdoor dining utilizing the existing patio space. With the Property being adjacent to the higher intensity retail in Apple Valley Square Shopping Center, the impacts related to this use are negligible to none while providing a service that survey participants requested.

- iv. *Will be served adequately by existing (or those proposed in the project) essential public facilities and services, including streets, police and fire protection, drainage, structures, refuse disposal, water and sewer systems and schools.*

The project will be served by existing essential public facilities and services.

- v. *Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be hazardous or detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors.*

The proposed use will not involve hazardous processes, materials or equipment. Because this is a Class II restaurant, it must undergo a plan review by the Minnesota Dept of Health for compliance with various building and mechanical codes to ensure adequate ventilation and mitigate any smoke or odors that may be produced in the cooking process.

- vi. *Will have vehicular ingress and egress to the property which does not create traffic congestion or interfere with traffic on surrounding public streets.*

Access to the site is by a private road via Pennock and Cedar Avenue, with ample space to enter into the parking lot without causing congestion of the public streets. In reviewing the proposed site and parking calculations of existing tenants, this use will require less parking stalls than the previous retail use, and meets the code requirements as required under Sections 155.372 and 155.379 of the City Code. When redeveloped, the site plan provided for a total of 35 parking stalls. With this proposed use planning for seating of 36, seats, at a calculation of 1 stall per 3 seats, they will require a total of 12 stalls. The existing tenants require a total of 7 stalls which brings the total number of stalls required to 19, with 35 being available.

- vii. *Will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.*

There are no known impacts to historic or natural resources with this Project.

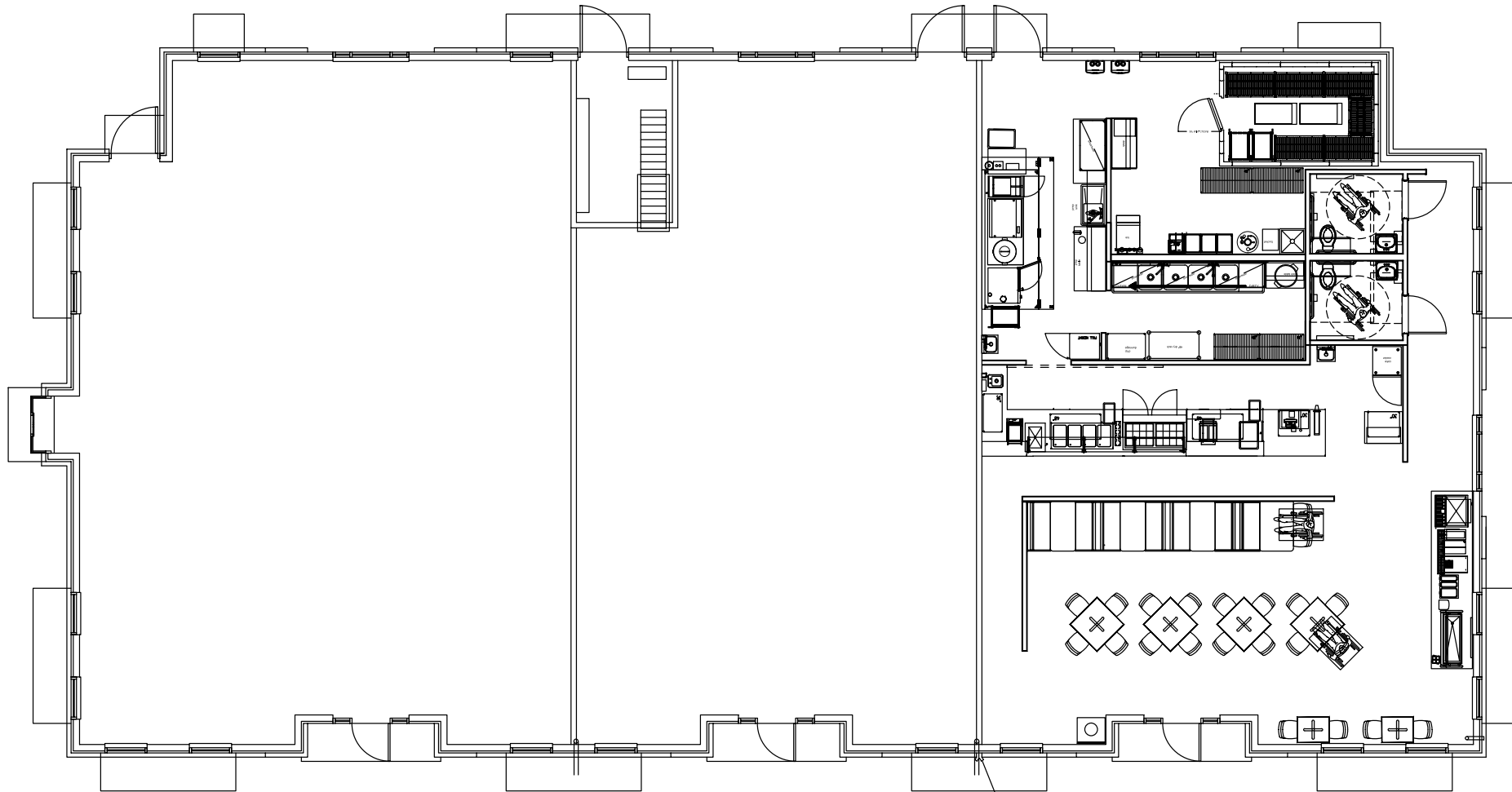
I believe that the information provided addressed all necessary considerations for the approval of the conditional use permit and variance requested. We respectfully request staff support, Planning Commission and City Council approval of our application. If you have any questions or require additional information, please do not hesitate to contact me. A representative from Moe's SW Grill and myself plan to be present at all meetings to be available for questions.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Lisa McCormick". The signature is fluid and cursive, with a long, sweeping flourish extending from the end of the name towards the top right of the page.

Lisa McCormick

Enc.



CLARIFICATIONS & QUALIFICATIONS:

THIS TEST FIT IS FOR INFORMATIONAL PURPOSES ONLY AND HAS NOT BEEN REVIEWED BY OPERATIONS. THIS TEST FIT CAN NOT BE USED IN PLACE OF A FORMAL CONCEPTUAL DESIGN. BELOW IS A LIST OF INFORMATION NEEDED BEFORE MOVING INTO CONCEPTUAL DESIGN PHASE:

- CONFIRM WITH LOCAL JURISDICTION THAT A SECOND MEANS OF EGRESS IS NOT REQUIRED IN CUSTOMER AREA.

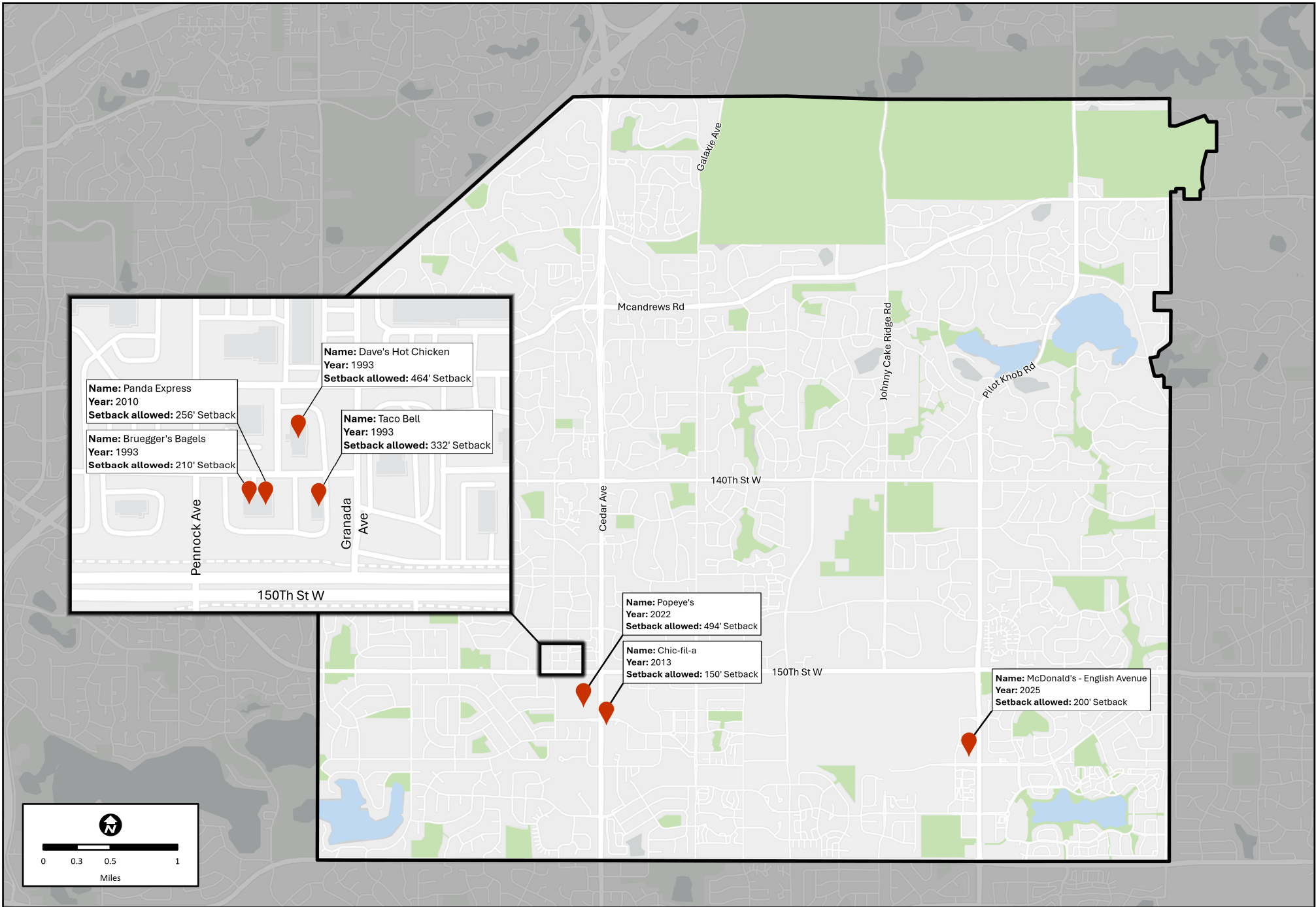
OPERATIONAL RISKS:

- LAYOUT MAY CHANGE AFTER INTERNAL OPS REVIEW.

TEST FIT: NOT FOR CONSTRUCTION

Location	Apple Valley, MN
Exterior Area	Approx. - 2,195
Interior Area	Approx. - 2,008
Total Seating	36
Date	02.13.2026
Revision	
Scale	1/8" = 1'-0"





Class II Restaurants with 1,000' Setback Variances



ITEM:
MEETING DATE:
SECTION:

6.A.
April 1, 2026
Other Business

Description: Review of Upcoming Planning Commission and City Council Meetings and Other Updates	
Staff Contact: Breanna Vincent, Department Assistant	Department / Division: Community Development

Action Requested:
Informational item only.

Summary:

Next Planning Commission Meetings:
Wednesday, April 15, 2026, at 7 p.m.
Applications due by 9 a.m. on Wednesday, March 18, 2026

Wednesday, May 6, 2026, at 7 p.m.
Applications due by 9 a.m. on Wednesday, April 8, 2026

Next City Council Meetings:
Thursday, April 9, 2026, at 7 p.m.
Thursday, April 23, 2026, at 7 p.m.

Background:
N/A

Budget Impact:
N/A

Attachments:

None