

MINUTES

TOWN OF APPLE VALLEY PLANNING COMMISSION Regular Meeting Wednesday, August 3, 2016

CALL TO ORDER

Chairman Qualls called to order the Regular Meeting of the Planning Commission of the Town of Apple Valley for August 3, 2016 at 6:00 p.m.

ROLL CALL

Planning Commission

Roll call was taken with the following members present: Commissioner Bruce Kallen, Commissioner Jason Lamoreaux, Commissioner B.R. "Bob" Tinsley, Vice-Chairman Mark Shoup and Chairman Doug Qualls. Absent: None

STAFF PRESENT

Carol Miller, Principal Planner, Pam Cupp, Associate Planner, Thomas Rice, Town Attorney, Jordan Ferguson, Town Attorney and Yvonne Rivera, Planning Commission Secretary.

PLEDGE OF ALLEGIANCE

Commissioner Lamoreaux led the Pledge of Allegiance.

1. APPROVAL OF MINUTES

Minutes for the Regular Meeting of June 15, 2016.

Chairman Qualls noted there is need to make a correction on Page 3 of the minutes for June 15, 2016 to read as follows:

Commissioner Lamoreaux commented on the digital signs and expressed concern regarding the separation distance.

Motion by Vice-Chairman Shoup, and seconded by Commissioner Lamoreaux, to approve the Minutes for the Regular Meeting of June 15, 2016, as amended.

Motion carried by the following vote: Ayes: Commissioner Kallen, Commissioner Lamoreaux, Vice-Chairman Shoup and Chairman Qualls. Noes: None. Absent: None. Abstain: Commissioner Tinsley

PUBLIC HEARING ITEMS

- 2. Conditional Use Permit No. 2016-001.** This is a request for approval to construct improvements necessary for the long-term maintenance and security of a recently completed groundwater production well. Improvements will include two (2) buildings, a perimeter block wall and landscaping.

Applicant: Mr. Greg Miles, representing Liberty Utilities

Location: 12691 Apple Valley Road; APN 3087-161-02

Chairman Qualls opened the public hearing at 6:06 p.m.

Commissioner Lamoreaux recused himself, due to a possible conflict, and left the dais at 6:07 p.m.

Pam Cupp, Associate Planner, presented the staff report as filed with the Planning Division.

Ms. Cupp answered questions by the Planning Commission regarding the decorative block wall.

Mr. Greg Miles, Liberty Utilities, commented on the proposed work. He also stated there would be measures in place to regulate the noise levels.

Commissioner Tinsley asked questions regarding the decorative block wall.

Chairman Qualls asked the Applicant if he agreed to the Conditions of Approval.

Mr. Miles, Applicant, stated he agreed with the Conditions of Approval.

PUBLIC COMMENTS:

None.

Chairman Qualls closed the public hearing at 6:14 p.m.

MOTION

Motion by Vice-Chairman Shoup, seconded by Commissioner Tinsley that the Planning Commission move to:

1. Find that, pursuant to the California Environmental Act (CEQA), Section 15332, Class 32, the proposed request is Exempt from further environmental review.
2. Find the Facts presented in the staff report support the required Findings for approval and adopt the Findings.
3. Approve Conditional Use Permit No. 2016-001, subject to the attached Conditions of Approval.
4. Direct Staff to file the Notice of Exemption.

ROLL CALL VOTE

Ayes:	Commissioner Kallen Commissioner Tinsley Vice-Chairman Shoup Chairman Qualls
Noes:	None
Abstain:	Commissioner Lamoreaux
Absent:	None

The motion carried by a 4-0-1-0 vote.

Commissioner Lamoreaux returned to the dais at 6:14 p.m.

3. **Development Code Amendment No. 2016-003.** A request Amend the Town Municipal Code to Repeal Provisions Regulating and Referring to Sex Offender Residency.
Applicant: Town of Apple Valley
Location: Town-wide

Chairman Qualls opened the public hearing at 6:15 p.m.

Thomas Rice, Town Attorney, presented the staff report as filed with the Planning Division.

Mr. Rice responded to questions by the Planning Commission regarding the lawsuit. He commented on some of the challenges made against the current regulations.

Chairman Qualls requested to know if any of the other jurisdictions have prevailed by increasing their restrictions over and above state law.

It was the consensus of the Planning Commission to move forward with staff's recommendation to approve Planning Commission Resolution No. 2016-007, to amend various sections of Town's Municipal Code.

PUBLIC COMMENT

None.

Chairman Qualls closed the public hearing at 6:22 p.m.

MOTION

Motion by Commissioner Tinsley, seconded by Vice-Chairman Shoup that the Planning Commission move to:

1. Approve Planning Commission Resolution No. 2016-007, forwarding a recommendation that the Town Council amend Title 9 "Development Code" of the Town of Apple Valley Municipal Code as outlined within the staff report.

ROLL CALL VOTE

Ayes: Commissioner Kallen
Commissioner Lamoreaux
Commissioner Tinsley
Vice-Chairman Shoup
Chairman Qualls
Noes: None
Abstain: None
Absent: None

The motion carried by a 5-0-0-0 vote.

4. **Development Code Amendment No. 2016-002.** A request to amend the Town Municipal Code to add Section 9.36.230 Prohibiting Cannabis Dispensaries, Cannabis Manufacturers, and the Cultivation and Delivery of Cannabis and to remove redundancies in the Apple Valley Municipal Code.

Applicant: Town of Apple Valley

Location: Town-wide

Chairman Qualls opened the public hearing at 6:24 p.m.

Jordan Ferguson, Town Attorney, presented the staff report as filed with the Planning Division. He also commented on the restrictions as outlined in the Ordinance.

Commissioner Kallen would like staff to prepare a comparison with other jurisdictions throughout California, to show what they are doing.

Mr. Ferguson indicated that the proposed ordinance is consistent with ordinances prepared for their clients throughout California.

Vice-Chairman Shoup read into the record, a summary of Section 7 of the Initiative as it relates to allowing cities and counties to impose a tax up to 10%.

Discussion ensued regarding setting up an ordinance that would authorize commercial distribution of marijuana with a tax.

Mr. Ferguson clarified that while the Town is allowed to put a measure on the ballot, the deadline is August 12, 2016; therefore, it should be considered for a future ballot where Council Members are elected.

Chairman Qualls requested to know if the proposed ordinance is the most restrictive approach the Town can take. He also asked a series of questions regarding Proposition 64 and the Adult Use of Marijuana Act (AUMA) that is on the November ballot.

Lengthy discussion ensued regarding the regulation of the indoor cultivating permit that would be required should Proposition 64 pass in November.

Mr. Thomas Rice, Town Attorney, informed the Planning Commission that a future item to discuss the requirement of an indoor cultivating permit would come back to the Planning Commission, should Proposition 64 pass in November.

PUBLIC COMMENT

John Laraway, Apple Valley, expressed concern regarding the Town requiring a permit in an effort to regulate marijuana. He believes that if the state does not require a permit, neither should the Town.

Chairman Qualls closed the public hearing at 6:53 p.m.

PLANNING COMMISSION COMMENTS:

Vice-Chairman Shoup stated he is in support of Proposition 64; however, he expressed concern regarding the proposed regulations. He would like staff to come back to the Planning Commission with an ordinance to allow for the use of marijuana and allow the citizens some freedom.

Chairman Qualls spoke in support of the ordinance; however, he explained the reasons why he believed the Town has a responsibility in attempting to permit from a safety aspect. Lengthy discussion ensued regarding the need to regulate the use of marijuana within Town limits.

Ms. Carol Miller, Principal Planner, clarified that a Home Occupancy Permit does not allow for retail sales out of your home.

MOTION

Motion by Commissioner Lamoreaux, seconded by Commissioner Tinsley that the Planning Commission move to:

1. Approve Planning Commission Resolution No. 2016-006, forwarding a recommendation that the Town Council amend Title 9 "Development Code" of the Town of Apple Valley Municipal Code as outlined within the staff report.

ROLL CALL VOTE

Ayes:	Commissioner Kallen Commissioner Lamoreaux Commissioner Tinsley Chairman Qualls
Noes:	Vice-Chairman Shoup
Abstain:	None
Absent:	None

The motion carried by a 4-1-0-0 vote.

OTHER BUSINESS:

5. Action on Subdivision Map Act Violations

For the Planning Commission to:

1. Provide an opportunity for Property Owners to present evidence to the Planning Commission per Government Code Section 66499.36;
2. As appropriate, provide direction to Staff to record Notices of Violation.

Applicant: Town of Apple Valley Engineering Department
Location: Multiple locations as Identified in the Staff Report

Brad Miller, Town Engineering, presented the staff report as filed with the Planning Division. He noted that the Notice of Intention provides the property owner an opportunity to contest the notice of violation and present evidence that supports why the notice of violation should not be recorded.

Mr. Miller responded to questions by the Planning Commission regarding whether or not the homeowners were properly noticed.

Commissioner Kallen recommended that in the future, the Notices specify each issue related to the each property.

MOTION

Motion by Chairman Qualls, seconded by Commissioner Kallen that the Planning Commission move to:

1. Provide direction to staff to record the Notices of Violation against the properties.

ROLL CALL VOTE

Ayes: Commissioner Kallen
Commissioner Lamoreaux
Commissioner Tinsley
Vice-Chairman Shoup
Chairman Qualls
Noes: None
Abstain: None
Absent: None

The motion carried by a 5-0-0-0 vote.

PUBLIC COMMENTS:

None.

PLANNING COMMISSION COMMENTS

None.

STAFF COMMENTS

None.

OTHER BUSINESS

None.

ADJOURNMENT


Motion by Commissioner Tinsley, seconded by Commissioner Kallen, and unanimously carried to adjourn the meeting of the Planning Commission at 7:19 p.m. to the Regular Meeting on August 17, 2016.

Respectfully Submitted by:



Yvonne Rivera
Planning Commission Secretary

Approved by:



Chairman Doug Qualls