

MINUTES

TOWN OF APPLE VALLEY PLANNING COMMISSION Special Meeting Wednesday, January 11, 2017

CALL TO ORDER

Chairman Qualls called to order the Special Meeting of the Planning Commission of the Town of Apple Valley for January 11, 2017 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, Orlando Acevedo, Economic Development Manager, Richard Pedersen, Deputy Town Engineer, Thomas Rice, Town Attorney, Charity Schiller, Town Attorney, and Yvonne Rivera, Planning Commission Secretary.

PLEDGE OF ALLEGIANCE

Vice-Chairman Shoup led the Pledge of Allegiance.

PUBLIC HEARING ITEMS

1. **Appeal No. 2016-001 and Appeal No. 2016-002 (Relating to Site Plan Review 2015-001, Project Jupiter)** Appeal of the Planning Director's approval of Site Plan Review No. 2015-01 and Mitigated Negative Declaration for a request to construct a 1,360,875 square-foot distribution center and associated ancillary facilities on 106.5 acres within the existing North Apple Valley Industrial Specific Plan. Site Plan Review No. 2015-01 and Mitigated Negative Declaration were approved by the Director on November 28, 2016.
Appellants: Lozeau Drury LLP representing Laborers International Union of North America, Local Union No. 783; and

Blum Collins LLP representing Golden State Environmental Justice Alliance

Location: Southwest corner of Lafayette and Navajo Roads; Parcel No. 1 of Parcel Map 19645. New APN not yet assigned. Portion of APNs 0463-231-07, -08, -10, -26, -27, -28, -42, -43, & -60

Chairman Qualls opened the public hearing at 6:04 p.m.

Mr. Thomas Rice, Town Attorney, commented on a minor change made to Resolution No. 2016-010. He noted for the record that the revised Resolution is included as part of the staff report and is available for members of public to review.

The Planning Commission expressed concern regarding the large handout provided by the attorney for Appellant Laborers International Union of North America, Local Union No. 783, Ms. Meredith Wilensky of Lozeau Drury LLP, immediately prior to the meeting commencing.

Ms. Charity Schiller, Town Attorney, informed the Planning Commission that the handout has been reviewed and counsel has determined that the information contained therein is duplicative of information and arguments made in the initial appeal letter; therefore, she recommended that the Planning Commission move forward with the meeting. She also noted the information provided herein must be included as part of the administrative record.

Ms. Schiller explained, for the benefit of the Planning Commission, why the late submittal of the information may not constitute exhaustion under CEQA. Ms. Schiller further indicated that the responses to comments included with the original package address the issues raised in the large handout.

A lengthy discussion ensued regarding continuing the Special Meeting for a future date to allow the Planning Commission sufficient time to review the large handout provided by the Appellant.

Ms. Carol Miller, Principal Planner, presented the staff report as filed by the Planning Division. She noted there is no new information that would change the finding in the Mitigated Negative Declaration (MND).

Ms. Miller read into the record a summary of the Mitigation Measures from the MND as it relates to the Climate Action Plan.

Ms. Schiller stated she did not believe the Applicant has prepared responses in terms of the individual items that are called out in the January 10 comment letter from Johnson,

Smith and Foy on behalf of the Sierra Club. However, the Applicant would be happy to address any questions by the Planning Commission as it relates to those individual items.

Ms. Miller responded to questions by the Planning Commission regarding whether or not the comments in the letter from the lawyer are in response to the proposed Mitigated Measures. She clarified it is not a new appeal, only comments to the notice that went out which indicate that they are in support of the appeal request and listed the reasons why.

Ms. Schiller also responded to concerns expressed by the Planning Commission regarding time limitations for comments. She provided the Planning Commission with a brief overview of the comment period established under CEQA. She stated for this Mitigated Negative Declaration, the comment period is 30 days; therefore, CEQA does not establish a hard and fast timeline for when comments have to be submitted by. In addition, any comments submitted as part of this hearing would constitute as part of the administrative record.

Mr. Rice recommended the Planning Commission call for a brief recess to allow the Commissioners to review the January 10 letter from Johnson, Smith and Foy.

The Planning Commission unanimously agreed to call a brief recess of the Planning Commission Special Meeting.

RECESS

Chairman Qualls called for a brief recess of the Planning Commission Special Meeting at 6:27 p.m.

RECONVENED

Chairman Qualls reconvened the Planning Commission Special Meeting at 6:35 p.m.

Ms. Schiller, adding to the comments by Ms. Miller, stated that the climate action code does not include a binding target. However, it indicates that the Climate Action Plan will help the Town to reduce the greenhouse gas emissions and that the enforceable target is 15% below 2005 levels, and that reaching that greenhouse reduction target will be achieved by 2020. She also pointed out that the Climate Action Plan (Page 4-1) confirms that all the measures included in the plan are "intended as a menu for existing and future development, and any combination of them can be implemented to reach the reduction targets on a project by project basis".

Ms. Schiller noted that this specific project does incorporate a number of energy efficiency measures (GHG reduction measures). In addition, there are extensive Conditions of

Approval which require that project design address architecture, HVAC Systems, plumbing and electrical.

PLANNING COMMISSION COMMENTS

Discussion ensued regarding the appeal process, as well as the initial planning of the North Apple Valley Industrial Specific Plan.

Mr. Rice explained that under the Specific Plan, a decision for an appeal is to be made by the Planning Director. He also noted that the plan, approved by the Town, is a stand-alone document that governs the existing area.

Ms. Nicole Criste, Terra Nova, provided the Planning Commission with a brief overview of the North Apple Valley Industrial Specific Plan. She also stated that the mitigated study, which includes potential impacts that have been reviewed and analyzed, shows that the project falls within the mitigated plan and does not indicate excessive uses. Therefore, the project is consistent with the information reported in the Environmental Impact Report (EIR).

Discussion ensued regarding information based on the traffic growth within the North Apple Valley Industrial area, as well as potential biological issues.

APPELLANT COMMENTS

Ms. Meredith Wilensky with Lozeau Drury LLP, representing Laborers International Union of North America, Local Union No. 783, apologized to the Planning Commission for the late submittal of the handout. She indicated that a large majority of the pages consist of a printout of the air quality model that their expert prepared. She further indicated that the handout and the exhibits did not raise new and additional issues. She proceeded to comment on the information provided in the handout regarding the EIR. She expressed concern that the proposed projects within the Apple Valley Industrial area will cause the emissions to exceed the 22% projected by the Town in 2006. She also commented on significant impacts to emissions due to numerous truck trips that will exceed the allotted thresholds, as well as issues surrounding biological impacts.

Ms. Wilensky questioned whether a fair argument was considered in the original EIR. She believes several issues were not considered in the 22% of presumed emissions reported in the EIR.

Lengthy discussion ensued regarding the 22% of emissions allotted for the proposed project as outlined in the initial EIR.

Mr. Josh Bourgeois, Golden State Environmental Justice Alliance, stated that they believe the EIR should be completed for said reasons in the letter.

APPLICANT COMMENTS

Ms. Deborah Quick, Applicant for Project Jupiter, provided the Planning Commission with a brief overview of the EIR for the Industrial Specific Plan. She felt that the Specific Plan was well done and addressed any impacts, including those related to CEQA. She also commented on the reasons why she believed the Appellant is unwilling to admit the uses will be different, the impacts will vary, and that emission standards will continue to evolve. Ms. Quick thanked staff for their work on the project and respectfully requested that the Planning Commission move forward with staff's recommendation.

PUBLIC COMMENTS

Mr. Brian Baker, Apple Valley, spoke on behalf of the Sierra Club Mojave Group. He stated that the group is against the proposed projects. He informed the Planning Commission that they believe the concerns written in the letter from their attorney regarding the EIR were not addressed by the Town. He respectfully requested that the Planning Commission not move forward with the project.

Lengthy discussion ensued regarding certain factors that may cause the emissions to exceed 22% as projected in the initial study by the Town.

Ms. Criste pointed out that the 22% of emissions is for long term operation only; it does not include construction. She also answered questions by the Planning Commission regarding model data basis as it relates to species.

There being no one else wishing to speak under public comments, Chairman Qualls closed the public hearing at 7:57 p.m.

PLANNING COMMISSION DISCUSSION

After lengthy discussion, it was the consensus of the Planning Commission to move forward with denial of Appeal No. 2016-01 and 02.

Mr. Rice read into the record the Motion, as amended by the Planning Commission:

That the Planning Commission deny Appeal No. 2016-01 and 02 by adopting Planning Commission Resolution No. 2016-010, as amended, which: (1) denies the appeals of the approvals previously issued for Site Plan Review No. 2015-01; (2) adopts a Mitigated Negative Declaration; (3) approves a Mitigation Monitoring and Reporting Program; and (4) approves Site Plan Review No. 2015-01 based on the facts presented in the staff

report and as discussed by the Planning Commission at their Special Meeting held January 11, 2017.

MOTION

Motion by Commissioner Lamoreaux, seconded by Commissioner Kallen, that the Planning Commission deny Appeal No. 2016-01 and 02 by adopting Planning Commission Resolution No. 2016-010, as amended, which: (1) denies the appeals of the approvals previously issued for Site Plan Review No. 2015-01 (Project Jupiter); (2) adopts a Mitigated Negative Declaration; (3) approves a Mitigation Monitoring and Reporting Program; and (4) approves the Site Plan Review No. 2015-01 based on the facts presented in the staff report and as discussed by the Planning Commission at their Special Meeting held January 11, 2017.

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.

OTHER BUSINESS

None.

PLANNING COMMISSION COMMENTS

None.

STAFF COMMENTS

Ms. Miller announced that the next regular Planning Commission meeting will be held on February 15, 2017 at 6:00 p.m.

ADJOURNMENT

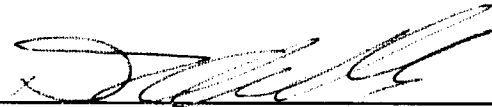
Motion by Vice-Chairman Shoup, seconded by Commissioner Kallen, and unanimously carried to adjourn the Special Meeting of the Planning Commission at 8:08 p.m. to the Regular Planning Commission Meeting on February 15, 2017.

Respectfully Submitted by:



Yvonne Rivera
Planning Commission Secretary

Approved by:



Chairman Doug Qualls