

## MINUTES

### TOWN OF APPLE VALLEY PLANNING COMMISSION Regular Meeting Wednesday, July 17, 2013

#### CALL TO ORDER

At 6:00 p.m., the Regular Meeting of the Planning Commission of the Town of Apple Valley for July 17, 2013, was called to order by Chairman Lamoreaux.

#### ROLL CALL

##### Planning Commission

Roll call was taken with the following members present: Commissioner Doug Qualls, Commissioner Mark Shoup, Commissioner B.R. "Bob" Tinsley, Vice-Chairman Bruce Kallen, and Chairman Jason Lamoreaux.

#### STAFF PRESENT

Lori Lamson, Community Development Director; Carol Miller, Senior Planner; Pam Cupp, Associate Planner; Richard Pederson, Deputy Town Engineer; Haviva Shane, Town Attorney; and Debra Thomas, Planning Commission Secretary.

#### PLEDGE OF ALLEGIANCE

Commissioner Shoup led the Pledge of Allegiance.

#### 1. APPROVAL OF MINUTES

- A. Minutes for the Regular Meeting of June 5, 2013.

Commissioner Shoup requested confirmation that a change he requested be made to the draft minutes was complete and made part of the official record. Debra Thomas, Planning Commission Secretary confirmed the change was made.

Motion by Commissioner Tinsley, seconded by Commissioner Qualls, to approve the Minutes for the Regular Meeting of June 5, 2013.

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

#### PUBLIC HEARING ITEM

2. **Conditional Use Permit No. 2013-005.** The Applicant requests approval to allow the construction and operation of a three (3) megawatt solar power generation facility on approximately twenty (20) acres.

**Applicant:** Belectric, Inc.

**Location:** The site is located on the north side of Zuni Road, approximately 635 feet east of Central Road; APN 0437-231-06.

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

Ms. Carol Miller, Senior Planner, presented the staff report as filed by the Planning Division.

Commissioner Shoup commented that, in the Setback Analysis section of the staff report, there were some proposed setbacks that were obviously of greater and higher standards than what is in the Town of Apple Valley's Development Code ("Development Code"). He wanted to know the source from where these numbers came.

Ms. Miller explained that the setbacks for the project were established by Belectric, Inc.

Chairman Lamoreaux asked if the Planning Division had been contacted by the adjacent homeowner.

Ms. Miller explained that a telephone call had been received from a property owner within the radius but not the adjacent homeowner. Ms. Miller called the person back and left a message but did not receive a return phone call.

Chairman Lamoreaux asked if there were any restrictions on panel height limit.

Ms. Miller explained the Planning Commission could require a height limit under the Conditions of Approval.

Vice-Chairman Kallen asked if the construction specifications were the same as the project approved before.

Ms. Miller stated the construction was the same product type. The flood elevation of the site was different from the other site on South and Navajo. It actually had less depth as far as the flood plain so the posts do not require the added height.

Ms. Beth Hoffman, Belectric, Inc. ("Applicant"), introduced herself to the Planning Commission and stated Belectric, Inc. was an engineering and construction firm but sometimes did self-develop projects, which was the case with the project. She explained how the company operated and how the power line, with respect to power supply and demand, worked as well as. Prior to construction, a large firm would buy a project which provided assurances that there is financial wherewithal to maintain the power plants. Legal requirements established by the landowner require the company to remove the product at the end of its useful life.

Commissioner Qualls asked if the outback-tracking project was the one being developed.

The Applicant described the project as a fixed tilt system oriented to the southwest in order to take advantage of summer super peak. It is oriented to produce the most power in the hottest part of the summer.

Commissioner Qualls wanted to know if the posts had a glare factor.

The Applicant stated the posts used are steel and have a matte finish. She could not visualize them glaring since by day two (2) they would be dusty.

Commissioner Tinsley asked where the panels were manufactured.

Applicant stated the panels were made by First Solar Panels, which is an American company. They had a manufacturing plant in Ohio.

Chairman Lamoreaux asked the Applicant what type of fence would be placed around the project.

The Applicant stated the fence in the brochure was a vinyl-covered fence.

## **PUBLIC COMMENTS**

None.

Commissioner Shoup wanted to know how the project would affect scenic vistas and its possible impact and adverse affects.

Ms. Miller stated from a planner's analysis, it needs to be black or white so there would need to be some document stating it was a scenic corridor, otherwise it would be considered subjective, and there was no recorded documentation stating that area was a scenic corridor.

Chairman Lamoreaux closed the public hearing at 6:34 p.m.

Vice-Chairman Kallen stated that the Planning Commission needed to schedule a workshop pertaining to solar projects. He believed the Development Code was flawed and more research needed to be completed on the subject and criteria established so that solar fields/farms would conform to each other.

Commissioner Shoup was alarmed and concerned with what he believed to be lack of setback requirements. He believed a request would come up in the near future for the Planning Commission to establish some standards.

Lori Lamson, Community Development Director, advised the Planning Commission that the Town of Apple Valley's Town Council ("Town Council") had a general discussion regarding solar farms and some of the Development Code issues had been raised at this meeting. The Town Council felt there was no need for a moratorium, but possibly some tweaking of the Town of Apple Valley's existing requirements would be necessary. The topic will be agendized for the second Planning Commission meeting in August, 2013.

Commissioner Tinsley does not believe galvanized materials would be a glare issue. He saw this product as being part of the fruits of the Town of Apple Valley's efforts from the creation of the General Plan Amendment Committee ("GPAC"). GPAC agreed that improvements and changes would be made as issues came up.

Commissioner Qualls expressed concern regarding fencing for solar farms. He believed discussion needed to take place soon to establish aesthetics for the long term. He does not want to end up with a hodge podge of different products on the Town of Apple Valley's more traveled roadways.

**MOTION:**

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

1. Determine that the proposed project does not have a negative impact upon the environment and adopt a Mitigated Negative Declaration pursuant to the guidelines to implement the California Environmental Quality Act (CEQA) for Conditional Use Permit No. 2013-005.
2. Find the Facts presented in the staff report support the required Findings for approval and adopt the Findings for Conditional Use Permit No. 2013-005.
3. Approve Conditional Use Permit No. 2013-005, subject to the attached Conditions of Approval.
4. Direct Staff to file the Notice of Determination.

**ROLL CALL VOTE**

Ayes: Commissioner Qualls  
Commissioner Shoup  
Commissioner Tinsley  
Vice-Chairman Kallen  
Chairman Lamoreaux  
Noes: None  
Abstain: None  
Absent: None  
The motion carried by a 5-0-0-0 vote

3. **Development Code Amendment No. 2013-004.** Planning staff requests an amendment to Development Code Section 9.29.160 for compliance with federal and state fair housing laws.  
**Applicant:** Town of Apple Valley  
**Location:** Town-wide

Chairman Lamoreaux opened the public hearing at 6:45 p.m.

Mr. Parrish Knox, Deputy Town Attorney, presented the staff report as filed by the Planning Division.

Commissioner Qualls questioned what kind of impact compliance with federal law would have on the Town of Apple Valley's ability to enforce group homes.

Mr. Knox stated that all group homes should have conformity and treated alike but that the Town of Apple Valley would still have the ability to review each group home on a case-by-case basis.

Vice-Chairman Kallen asked Mr. Knox to specifically point out where in the Development Code changes have been made.

Mr. Knox explained the definition of group homes, how it prohibits discrimination in housing against individuals with disabilities and requires cities take affirmative action to eliminate regulations, policies, practices and procedures that deny housing opportunities to individuals with disabilities. He explained that a request for reasonable accommodation may be made by any person with a disability, a representative of a person with a disability or a developer or provider of housing for one (1) or more persons with disabilities and provided the Planning Commission with examples of types of group home.

Chairman Lamoreaux interpreted the issue as “housekeeping”. He commented on the fact that if the Planning Commission did not pass the Resolution, the Town of Apple Valley would be violating federal law.

Haviva Shane, Town Attorney, corrected for the record the definition of group homes as it had been presented in the Resolution. The second sentence seemed to be missing a phrase where it reads: “This definition shall not include any person with a disability, a representative of a disability...” should read: “This definition shall not include any person with a disability, a representative of a person with a disability...”

### **PUBLIC COMMENTS**

None.

Chairman Lamoreaux closed the public hearing at 6:54 p.m.

### **MOTION:**

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

1. Approve Planning Commission Resolution No. 2013-006 recommending the Town Council amend Development Code Section 9.29.160 for compliance with federal and state fair housing laws.

### **ROLL CALL VOTE**

Ayes:           Commissioner Qualls  
                  Commissioner Shoup  
                  Commissioner Tinsley  
                  Vice-Chairman Kallen  
                  Chairman Lamoreaux

Noes:           None

Abstain:       None

Absent:       None

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

### **PUBLIC COMMENTS**

None.

## **PLANNING COMMISSION COMMENTS**

Commissioner Qualls stated he looked forward to the upcoming workshops on some of the projects that have mentioned.

Vice-Chairman Kallen stated the Planning Commission needed to schedule a workshop pertaining to abandoned housing tracts and establish some guidelines..

## **STAFF COMMENTS**

Lori Lamson, Community Development Director, advised the Planning Commission of the upcoming schedule. She stated that at the next meeting August 7, 2013, a workshop would be conducted on medical marijuana dispensaries. It would be the only item on the agenda to allow the anticipated large public comment period as well as conducting fruitful discussion.

Commissioner Shoup informed the Planning Commission that he believed the City of Hesperia approved a type of ordinance regarding medical marijuana dispensaries and wanted to know if the Town of Apple Valley's Planning Department could contact the City of Hesperia directly to see what their Planning Commission approved.

Ms. Lamson also informed the Planning Commission that at the August 21, 2013, meeting, they would discuss solar farms as well as tracts that have been abandoned and how to continue those tracts. Depending on how far the Planning Commission gets with the medical marijuana dispensary workshop on August 7, 2013 and if more time was needed, it would be continued to the first meeting in September, 2013.

## **OTHER BUSINESS**

4. Planning Commission discussion of sign regulations and existing sign conditions within the Town of Apple Valley presented by Pam Cupp, Associate Planner.

Pam Cupp, Associate Planner, explained to the Planning Commission that the Town Council desires to create and/or enhance design and permitting requirements for various types of temporary signs.

Lengthy discussion ensued between the members of the Planning Commission presenting their opinions, questions and concerns addressing the emergence of new advertising technologies, together with the proliferation of temporary and otherwise unregulated signage, which has created the need to re-examine the Town of Apple Valley's sign regulations. The Planning Commission provided direction to staff that would assist them in preparing a resolution with recommendations to the Town Council.

## **RECESSED MEETING**

Chairman Lamoreaux declared a recess of the Town of Apple Valley Planning Commission at 8:17 p.m.

## RECONVENED MEETING

Chairman Lamoreaux reconvened the meeting of the Town of Apple Valley Planning Commission at 8:24 p.m.

Continued discussion between the Commissioners ensued as they re-examined the Town of Apple Valley's sign regulations.

5. Planning Commission discussion pertaining to public hearing noticing requirements presented by Carol Miller, Senior Planner. Explained definition of Development Code Section 9.13.030.A.9.

Vice-Chairman Kallen recommended tabling the discussion and to continue it to the August 21, 2013, Planning Commission meeting.

Ms. Lori Lamson, Community Development Director, explained that the August 21, 2013, meeting was quite full and, after some brief discussion, advised the Planning Commission that moving it to a meeting in October, 2013 would allow the Planning Commission more time to address the topic.

The Planning Commission, by consensus, continued discussion on Public Hearing Noticing Requirements to a meeting in October, 2013.

6. Planning Commission discussion pertaining to the time limit of public comments for Planning Commission meetings presented by Lori Lamson, Community Development Director.

Ms. Lori Lamson, Community Development Director, summarized the Planning Commission Resolution identifying the rules and procedures for conduct of Planning Commission meetings

Vice-Chairman Kallen asked when the Town Council changed its public comment period from five (5) minutes to three (3) minutes.

Ms. Lamson suggested it was in the year 2007.

Commissioner Qualls stated his understanding of the Resolution was that the chairman of the Planning Commission had the flexibility to do essentially whatever he wanted. He did not believe the Planning Commission should change anything in the Resolution when it clearly states the chairman has the discretion to limit or expand on any item at hand.

Commissioner Shoup commented if the Planning Commission saw a surplus of people that wanted to speak, he believed they should not be limited and allowed their five (5) minutes.

Chairman Lamoreaux just wanted to align the Planning Commission with the Town Council's three (3) minutes and if someone wanted to go beyond that time limit, that person could request additional time. If it were relevant and added new material to the topic, he would grant more time.

Haviva Shane, Town Attorney, explained to the Planning Commission they would have to treat all members of the public the same. One member of the public would have no more or less speaking time than any other member of the public.

Vice-Chairman Kallen commented on the possible fact that if the meeting were to attract a packed house and, it appeared time would be an issue, the Chairman could explain that due to time constraints, public speaking was limited to three (3) minutes per person.

Commissioner Shoup expressed his view that, if the Planning Commission had a room full of people who want to speak for five (5) minutes, there would be nothing wrong with that. He explained that people have a right to speak. If the public wanted to speak with its Planning Commission, he does not believe the time should be cut off. He was not in favor of limiting access to government and wanted to keep the five (5) minute public comment period.

### **MOTION**

Motion by Vice-Chairman Kallen, seconded by Commissioner Tinsley, to conduct Planning Commission meetings based on the Rules and Procedures for Conduct of Planning Commission Meetings stated in Planning Commission Resolution No. 2005-005 with no changes.

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

### **ADJOURNMENT**

Motion by Commissioner Tinsley seconded by Vice-Chairman Kallen, and unanimously carried to adjourn the meeting of the Planning Commission at 9:30 p.m. to the Regular Meeting on August 7, 2013.

Respectfully Submitted by:

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Debra Thomas  
Planning Commission Secretary

Approved by:

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Chairman Jason Lamoreaux