

## MINUTES

### TOWN OF APPLE VALLEY PLANNING COMMISSION REGULAR MEETING

August 1, 2018

#### CALL TO ORDER

Chairman Tinsley called to order the regular meeting of the Town of Apple Valley Planning Commission at 6:00 p.m.

#### Roll Call

Present: Commissioners Bruce Kallen; Doug Qualls; Mark Shoup; Vice-Chairman Jason Lamoreaux; Chairman B.R. "Bob" Tinsley

Absent: None.

#### Staff Present

Carol Miller, Assistant Director of Community Development, Pam Cupp, Associate Planner, Albert Maldonado, Town Attorney, Yvonne Rivera, Planning Commission Secretary.

#### PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Vice-Chairman Lamoreaux.

#### PUBLIC COMMENTS

Dennis Clothier, Apple Valley, expressed concern regarding the point system used as part of the plan review process. He believed that the program is too vague, making it difficult for builders to have their plans approved. He respectfully requested that the Commission consider modifying the policy.

Robby Smith, Apple Valley, agreed with the comments by Mr. Clothier. He believed that the designs that are submitted by builders are rejected by staff due to their own interpretations. He believed that the definitions in the point system program are not clear and that has created a need to modify the point system program.

Carol Miller, Assistant Director of Community Development, informed the Commission that there is an appeal process available to any builder that is not satisfied with the outcome of their plan check. She noted that the timeframe for an appeal to be considered is within 30 days.

The Commission regarding the points program, and possible solutions that would help make the program more appealing to builders.

Chairman Tinsley expressed concern regarding the program discouraging builders from wanting to build in Apple Valley.

Mr. Smith expressed concern regarding how the planter wall item is defined in the criteria check list. He also commented on other builders that have the same issues with the point system.

Mr. Clothier commented on issues related to how the court yard item is defined in the point system. He also believed there is misinterpretation within the point system when adding a two (2)-car garage.

## PUBLIC HEARINGS

### CONTINUED FROM JULY 18, 2018

- 2. Conditional Use Permit No. 2018-007 and Deviation Permit No. 2018-006.** A request for approval of a Conditional Use Permit to install a seventy-five (75)-foot tall wireless telecommunications tower designed as a faux water tank. The tower has been designed to accommodate a second carrier. The tower has been designed to accommodate a second carrier. The tower will be situated within the southeasterly corner of the park within a 784 square-foot lease area that accommodates the tower and equipment enclosure. The Deviation is a request for a reduced separation distance from residential zoned property to the south and west.

**Applicant:** Spectrum Services for Verizon Wireless

Vice-Chairman Lamoreaux announced that he had a potential conflict of interest on Agenda Item No. 2 because Verizon is a Tenant at one of his commercial centers. Therefore, he recused himself from voting on this item.

### **VICE-CHAIRMAN LAMOREAUX EXCUSED HIMSELF FROM THE DAIS AT 6:13 P.M.**

Chairman Tinsley announced that at the request of the Applicant, this item will be continued to the next regular meeting on August 15, 2018.

### MOTION

Motion by Commissioner Shoup, and seconded by Commissioner Qualls, to continue this item to the next Planning Commission Meeting on August 15, 2018.

Vote: Motion carried 4-0-0-1

Yes: Commissioners Kallen; Qualls; Shoup; Chairman Tinsley

Abstain: Vice-Chairman Lamoreaux

**VICE-CHAIRMAN LAMOREAUX RETURNED TO THE DAIS AT 6:14 P.M.**

- 3. Conditional Use Permit No. 2018-004 and Deviation Permit No. 2018-007.** A request for approval of a Conditional Use Permit to construct a seventy-five (75)-foot tall wireless telecommunications tower designed as a pine tree. The tower and separate 270 square foot equipment enclosure will be located within the golf course maintenance yard. The project includes a request for approval of a Deviation Permit to allow an encroachment of approximately fifty (50) feet into the required 500-foot separation requirement between the tower and residential uses and relief from the landscape buffer requirement.

**Applicant:** J5 Infrastructure Partners for Verizon Wireless

Vice-Chairman Lamoreaux announced that he had a potential conflict of interest on Agenda Item No. 3 because Verizon is one of his Tenants at one of his commercial centers. Therefore, he recused himself from voting on this item.

**VICE-CHAIRMAN LAMOREAUX EXCUSED HIMSELF FROM THE DAIS AT 6:14 P.M.**

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

Commissioner Kallen asked a series of questions regarding the location of the proposed telecommunication tower. He asked why it was not possible to have it located an additional fifty (50)-feet away from the condos. He also questioned whether or not there were surrounding live trees that would blend with the telecommunication tower that is designed as a pine tree.

Ms. Cupp explained that by moving the tower an additional fifty (50)-feet, it would fall outside of the maintenance yard and onto the golf course greens. She also confirmed that there are other trees located in the location that was selected for the telecommunications tower as shown in the photo simulation provided to the Commission.

Commissioner Shoup also questioned the preferred location for the tower. He asked if the property owners have been notified about this public hearing.

Chairman Tinsley explained from a golfer's perspective how the proposed location for the tower is an ideal location.

Ms. Cupp stated that all property owners within 1500 feet of the site were notified about the public hearing.

Chairman Tinsley asked the Applicant if he agreed with all Conditions of Approval.

Mr. Novak stated he was in agreement with all Conditions of Approval.

There being no one wishing to speak on this item, Chairman Tinsley closed the public hearing at 6:27 p.m.

**MOTION**

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

1. Determine that pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA) Section 15303, Conditional Use Permit No. 2018-004 and Deviation Permit No. 2018-007 are exempt from further environmental review.
2. Find the Facts presented in the staff report support the required Findings for approval and adopt the Findings for Conditional Use Permit 2018-004 and Deviation Permit No. 2018-007.
3. Approve Conditional Use Permit No. 2018-004 and Deviation Permit No. 2018-007, subject to the attached Conditions of Approval.
4. Direct Staff to file the Notice of Exemption.

Vote: Motion carried 4-0-0-1

Yes: Commissioners Kallen; Qualls; Shoup; Chairman Tinsley

Abstain: Vice-Chairman Lamoreaux

**VICE-CHAIRMAN LAMOREAUX RETURNED TO THE DAIS AT 6:27 P.M.**

**PLANNING COMMISSION COMMENTS**

Chairman Tinsley commented on the concerns expressed by the speakers regarding the difficulties to have their plans approved based on the point system program.

Albert Maldonado, Town Attorney, cautioned the Commission regarding having any discussions on matters that are not on the agenda. He recommended that the Commission direct staff to come back with a future item for discussion.

Chairman Tinsley asked the frequency in which staff receives complaints by builders regarding the point system.

Ms. Miller stated she would be happy to meet with the builders to resolve the issues.

**STAFF COMMENTS**

None.

**OTHER BUSINESS**

**4. Development Code discussion regarding beer and wine establishments for on-site consumption.**

Ms. Miller commented on issues surrounding establishments that sell alcohol for on-site consumption. She provided the Commission with the definition of alcohol sales for the use of on-site consumption according to the Development Code. She clarified that establishments that serve food are not required a Conditional Use Permit (CUP) but other on-site consumption does require a Conditional Use Permit. Ms. Miller also commented on the involvement of Alcohol Beverage Control (ABC) with these establishments.

Ms. Miller explained that ABC has broadened their licensing types. As a result, staff would like to ask the Commission for direction as to whether or not the Town's Development Code should be broken down further in order to better determine what would require a CUP versus possibly a Special Use Permit (SUP).

Discussion ensued regarding the types of establishments that typically require a CUP, and whether or not there is a need for the Town to regulate them.

Commissioner Kallen asked from the Town's stand point, the pros and cons of a CUP. He also questioned why a CUP would not be required for all establishments.

Ms. Miller commented on the issues that have occurred due to businesses that originally started as wine tasting and issued a beer and wine license by the state for onsite consumption but have now evolved into, by definition a bar that do not have a CUP. She stated that this issue has also created a problem with the Town's code versus the license that the state licenses provides.

Commissioner Shoup believed that the Town's code is not in sync with the State License Regulations.

Vice-Chairman Lamoreaux asked about the establishments in Apple Valley that have live bands. He questioned whether or not they also require a CUP.

Ms. Miller indicated that the Development Code is silent when it comes to live entertainment.

A lengthy discussion ensued regarding the establishments within the Town that require a CUP.

Ms. Miller provided the Commission with the definitions of on-site consumption vs. off-site consumption.

Albert Maldonado, Town Attorney, read into the record the description of License Type 40 according to ABC, which reads as follows:

“Authorizes the sale of beer at a bar or tavern, for consumption on or off the premises where sold. No wine or distilled spirits may be sold on the premises. Full meals are not required; however, sandwiches or snacks must be available. Also, minors are allowed on the premises.”

Mr. Maldonado also commented on the types of food that he believed would be considered a snack according to ABC.

Commissioner Qualls asked the process of a Special Use Permit (SUP). He also asked if an applicant would be able to appeal a condition based upon a SUP.

Ms. Miller responded that an applicant would have the ability to appeal an SUP. She also commented on code amendments for the Commission's consideration.

Commissioner Kallen commented on the terms of an SUP. He also asked if the Town can regulate a SUP in the event that a business owner is not in compliance.

Ms. Miller responded that the Town can impose regulations if the business is not in compliance with their Conditions of Approval or have development into a nuisance. She also noted that a CUP is discretionary, and the Town has the ability to re-evaluate them and revoke them.

Michelle Wheatley, Manager, Havana Beer and Wine, agreed that there should be monitoring of a business by the Town. However, she also believed that there is a need for adult night life in Apple Valley that is not a bar. She commented on how Havana Beer and Wine has evolved since it was first licensed under the former business named Davino's. She stated that she did not believe that the owners of Havana Beer and Wine understood that the Town defined them as a bar. She also believed that the parking for Havana Beer and Wine is not adequate for the site.

Zacc Wheatley, Manager, Havana Beer and Wine, read into the record the definitions of on-site and off-site sales of alcohol according to ABC's website. He stated that after meeting with staff, he felt the need to contact ABC for clarification regarding their license. He also believed that there is room to improve the definition of businesses.

Commissioner Qualls believed that it is a good idea to require an SUP to establishments where alcohol is manufactured or sold. He recommended staff review this process on a case by case basis in an effort to establish some parameters in the interim until the issues are resolved.

Ms. Miller responded stating that the Town must adhere to the Code. She also noted that if ABC were to consider a business as a restaurant, then the Town would not require a CUP.

Ms. Miller asked the Commission if it would be their direction to have staff approach the Town Council for permission to proceed with a possible code amendment.

It was the consensus of the Commission that staff approach the Town Council to ask for permission to develop an amendment to the code.

**ADJOURNMENT**

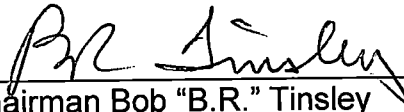
Motion by Vice-Chairman Lamoreaux, seconded by Commissioner Kallen, and unanimously carried, to adjourn the meeting of the Planning Commission at 7:30 p.m. to its next regularly scheduled meeting on August 15, 2018.

Respectfully Submitted by:



Yvonne Rivera  
Planning Secretary

Approved by:



Chairman Bob "B.R." Tinsley