

MINUTES

TOWN OF APPLE VALLEY PLANNING COMMISSION Regular Meeting Wednesday, May 15, 2013

CALL TO ORDER

At 6:00 p.m., the Regular Meeting of the Planning Commission of the Town of Apple Valley for May 15, 2013, was called to order by Chairman Lamoreaux.

ROLL CALL

Planning Commission

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

STAFF PRESENT

Lori Lamson, Community Development Director, Carol Miller, Senior Planner, Douglas Fenn, Senior Planner, Pam Cupp, Associate Planner, Haviva Shane, Town Attorney, and Debra Thomas, Planning Commission Secretary.

ELECTION OF NEW OFFICERS

MOTION:

Commissioner Shoup made a motion, seconded by Commissioner Kallen, that Chairman Lamoreaux be nominated and continue as Chairman of the Apple Valley Planning Commission.

ROLL CALL VOTE

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

The motion carried by a 3-0-1-1 vote

MOTION:

Commissioner Qualls made a motion, seconded by Commissioner Shoup, that Commissioner Kallen be nominated as Vice-Chairman of the Apple Valley Planning Commission.

ROLL CALL VOTE

Ayes: Commissioner Qualls
Commissioner Shoup
Chairman Lamoreaux
Noes: None
Abstain: Commissioner Kallen
Absent: Commissioner Tinsley
The motion carried by a 3-0-1-1 vote

RECESS FOR REORGANIZATION

PLEDGE OF ALLEGIANCE

Vice-Chairman Kallen led the Pledge of Allegiance.

1. APPROVAL OF MINUTES

A. Minutes for the Regular Meeting of October 17, 2012.

Motion by Commissioner Qualls, seconded by Commissioner Shoup, to approve the Minutes for the Regular Meeting of October 17, 2012.

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

B. Minutes for the Regular Meeting of April 17, 2013.

Motion by Commissioner Qualls, seconded by Commissioner Shoup, to approve the Minutes for the Regular Meeting of April 17, 2012.

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

PUBLIC HEARING ITEM

4. Tract Map No. 14582, Amendment No. Three (3). A request to amend Condition of Approval No. 35 of Tract Map No. 14582, requiring a 200-foot building setback from San Bernardino County Flood Control District right-of-way by allowing a seventy-five (75)-foot building setback.

Applicant: Gar Brewton representing Yeager Bros. LLC

Location: The lots are located south of Yucca Loma Road, westerly side of Kasanka Trail, adjacent to the Mojave River. APNs; 3088-571-16 & 17, 3088-581-15 thru 18, 3088-591-08 thru 11.

Chairman Lamoreaux opened the public hearing at 6:07 p.m.

Ms. Lori Lamson, Community Development Director, stated that the applicant had requested this item be tabled. She stated the item would be re-noticed before it is brought back before the Commission.

Chairman Lamoreaux closed the public hearing at 6:09 p.m.

MOTION:

Motion by Commissioner Shoup seconded by Vice-Chairman Kallen, that the Planning Commission move to table this item at the request of the applicant.

ROLL CALL VOTE:

Ayes: Commissioner Qualls
Commissioner Shoup
Vice-Chairman Kallen
Chairman Lamoreaux
Noes: None
Abstain: None
Absent: Commissioner Tinsley
The motion carried by a 4-0-0-1 vote

2. **Conditional Use Permit No. 2013-02.** A request to approve a Conditional Use Permit to operate an automobile repair service facility within an existing 8,670 square-foot industrial building.

Applicant: Mr. Bill Goforth, B & K Automotive

Location: 13528 Nomwaket Road, Suite B-104, 105 and 106; APNs 3087-811-11, -12 and -13.

Chairman Lamoreaux opened the public hearing at 6:10 p.m.

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

Commissioner Shoup expressed concern that applicant was already operating his business without the proper Conditional Use Permit in place.

Chairman Lamoreaux asked whether the applicant reviewed and agreed to all of the proposed Conditions of Approval.

Mr. Bill Goforth, applicant, agreed to the proposed Conditions of Approval.

PUBLIC COMMENTS

None.

Commissioner Shoup stated he did not endorse applicant opening a business illegally and did not believe it should be tolerated. Whatever action the Town of Apple Valley needs to do to deal with that is independent of what he felt and will approve the project as applicant did have a proven record of accomplishment within the community.

Chairman Lamoreaux closed the public hearing at 6:16 p.m.

MOTION:

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

1. Find that, pursuant to the California Environmental Quality Act (CEQA), Section No. 15301, Class 1, 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. 2013-002, subject to the attached Conditions of Approval.
4. Direct Staff to file the Notice of Exemption.

ROLL CALL VOTE

Ayes: Commissioner Qualls
Commissioner Shoup
Vice-Chairman Kallen
Chairman Lamoreaux
Noes: None
Abstain: None
Absent: Commissioner Tinsley
The motion carried by a 4-0-0-1 vote

3. **Conditional Use Permit No. 2013-01.** A request to approve a Conditional Use Permit to allow the installation of a 30,000-gallon propane tank for the purpose of propane sales to the public and a 1,496 square-foot office and maintenance garage.

Applicant: Silver Valley Propane
Location: The site is located on the east side of Manhasset Road, south of Powhatan Road; APN 3087-351-36

Chairman Lamoreaux opened the public hearing at 6:18 p.m.

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

Mr. Larry Charette, applicant and co-owner of Silver Valley Propane, described to the Commission the history of his propane tank business, system installation and safety.

Commissioner Qualls posed several questions to applicant including potential mishaps and asked the applicant to describe how those potential mishaps would be mitigated.

Chairman Lamoreaux asked whether the applicant reviewed and agreed to all of the proposed Conditions of Approval.

Mr. Charette agreed to the Conditions of Approval.

PUBLIC COMMENTS

None.

Chairman Lamoreaux closed the public hearing at 6:37 p.m.

MOTION:

Motion by Commissioner Shoup 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 Negative Declaration pursuant to the guidelines to implement the California Environmental Quality Act (CEQA) for Conditional Use Permit No. 2013-01.
2. Find the Facts presented in the staff report support the required Findings for approval and adopt the Findings for Conditional Use Permit No. 2013-01.
3. Approve Conditional Use Permit No. 2013-01, subject to the attached Conditions of Approval.
4. Direct Staff to file the Notice of Determination.

ROLL CALL VOTE:

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

Noes: None

Abstain: None

Absent: Commissioner Tinsley

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

5. **Development Code Amendment No. 2013-002.** A request to consider an amendment to Title 9 “Development Code” of the Town of Apple Valley Municipal Code amending subsection “B” of Table 9.28.050-A “Permitted Uses” within Section 9.28, “Residential Districts” as it relates to Animal Keeping Permits within the community.

Applicant: Town of Apple Valley

Location: Town-wide

Chairman Lamoreaux opened the public hearing at 6:40 p.m.

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

Ms. Cupp informed the Commission that Staff would like to suggest a language change as follows: “and cat colonies” would be deleted and replaced with “and providing support to feral cat colonies” under Table 9.28.030-A Permitted Uses, Footnotes 5 and 7.

Discussion ensued between Staff and the Commission to assist them in understanding the definition of feral cat colony.

Commissioner Shoup requested staff define the term “feral cat colony” in the Development Code and under Table 9.28.030-A Permitted Uses, Type of Use Item No. 10, would like the dash (“-“) replaced with “N/A”.

PUBLIC COMMENTS

None.

Chairman Lamoreaux closed the public hearing at 7:00 p.m.

MOTION:

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

1. Approve Planning Commission Resolution No. 2013-04, 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.
2. Amend language in the Development Code to define feral cat colonies as one or more feral cats.
3. Amend Table 9.28.030-A Permitted Uses, Type of Use Item No. 10 to change all dashes with “P”, Permitted Use.

ROLL CALL VOTE:

Ayes: Commissioner Qualls
Commissioner Shoup
Vice-Chairman Kallen
Chairman Lamoreaux
Noes: None
Abstain: None
Absent: Commissioner Tinsley
The motion carried by a 4-0-0-1 vote

6. **Development Code Amendment No. 2013-001.** A request to consider an amendment to Title 9 “Development Code” of the Town of Apple Valley Municipal Code as it pertains to Internet-Cafes, and Hookah Bars/Lounges as regulated uses, subject to approval of a Special Use Permit, to operate within the Town of Apple Valley.

Applicant: Town of Apple Valley
Location: Town-wide

Chairman Lamoreaux opened the public hearing at 7:01 p.m.

Mr. Douglas Fenn, Senior Planner, presented the staff report as filed by the Planning Division.

Mr. Fenn advised the Commission that the Town of Apple Valley's Town Attorney recommended additional changes to Planning Commission Resolution No. 2013-003 to include the following:

- Under Section 9.36.210 Hookah Bar/Lounge (C)(1)(d)(v); Add an additional sentence that states: "The premises shall be maintained and operated at all times in accordance with all applicable Local, State and Federal laws, rules and regulations and in a manner so as to not constitute a nuisance within the Town."
- Under 9.36.055 Internet-Café (C)(1)(b), include an additional sentence that states: "Noise or other conditions related to the approved use, the Planning Commission may also revoke this Special Use Permit if the use is not operating in accordance with the standards and requirements set forth in this section."
- Under Section 9.36.055 Internet-Café (C)(1)(h), include an additional sentence that states: "The premises shall be maintained and operated at all times in accordance with all applicable Local, State and Federal laws, rules and regulations and in a manner so as to not constitute a nuisance within the Town."

It was the consensus of the Commission that, under Section 9.36.210 (C)(1)(d)(ii), outdoor smoking is permitted in conformance with State law within a designated closed-in patio and prohibited in non-designated smoking areas.

Lengthy discussion ensued regarding hookah bars/lounges and the products that may be sold on-site and how local, state and federal laws and regulations dictate the sale of those products and their use on the premises.

PUBLIC COMMENTS

None.

Chairman Lamoreaux closed the public hearing at 8:09 p.m.

MOTION:

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

1. Approve Planning Commission Resolution No. 2013-003, forwarding a recommendation that the Town Council modify Title 9 of the Development Code as it pertains to Internet-Cafes and Hookah Bars/Lounges.
2. Modify Resolution No. 2013-003 to omit the definition issue of primary business as it relates to Hookah Bar/Lounge.
3. Under Section 9.36.210 Hookah Bar/Lounge (C)(1)(d)(i); Only Shisha flavored tobacco and other legal tobacco products are to be smoked on site.
4. Under Section 9.36.210 Hookah Bar/Lounge (C)(1)(d)(ii); Outdoor smoking is permitted in conformance with State law within a designated closed-in patio and prohibited in non-designated smoking areas.
5. Under Section 9.36.210 Hookah Bar/Lounge (C)(1)(d)(iv) shall read "All Hookah Bars/Lounges shall be fully lighted to the extent that all areas of the premises are easily observable."

6. Under Section 9.36.210 Hookah Bar/Lounge (C)(1)(d)(v); Add an additional sentence that states: "The premises shall be maintained and operated at all times in accordance with all applicable Local, State and Federal laws, rules and regulations and in a manner so as to not constitute a nuisance within the Town."
7. Under Section 9.36.210 Hookah Bar/lounge (C)(1)(d)(vi) the reference to arcade shall be changed to Hookah/Bar Lounge.
8. Under 9.36.055 Internet-Café (C)(1)(b), include an additional sentence that states: "Noise or other conditions related to the approved use, the Planning Commission may also revoke this Special Use Permit if the use is not operating in accordance with the standards and requirements set forth in this section."
9. Under Section 9.36.055 Internet-Café (C)(1)(h), include an additional sentence that states: "The premises shall be maintained and operated at all times in accordance with all applicable Local, State and Federal laws, rules and regulations and in a manner so as to not constitute a nuisance within the Town."

ROLL CALL VOTE:

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

Noes: None

Abstain: None

Absent: Commissioner Tinsley

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

PUBLIC COMMENTS

Ms. Carolyn Walton, Apple Valley, CA discussed her family history in the High Desert. She stated she polled numerous Muslim women in the area and they told her they disapproved of hookah smoking. Ms. Walton told the Commission she appreciated everything they do.

PLANNING COMMISSION COMMENTS

Vice-Chairman Kallen thanked the Commission for their confidence in him to serve as Vice-Chairman.

Chairman Lamoreaux thanked the Commission for their confidence in electing him Chairman for another year.

OTHER BUSINESS

None.

STAFF COMMENTS

None.

ADJOURNMENT

Motion by Commissioner Qualls, seconded by Vice-Chairman Kallen, and unanimously carried to adjourn the meeting of the Planning Commission at 8:22 p.m. to the Regular Meeting on June 5, 2013.

Respectfully Submitted by:

Debra Thomas
Planning Commission Secretary

Approved by:

Chairman Jason Lamoreaux