

MINUTES

TOWN OF APPLE VALLEY PLANNING COMMISSION Regular Meeting Wednesday, September 21, 2016

CALL TO ORDER

Chairman Qualls called to order the Regular Meeting of the Planning Commission of the Town of Apple Valley for September 21, 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, Richard Pedersen, Deputy Town Engineer, Thomas Rice, Town Attorney, and Yvonne Rivera, Planning Commission Secretary.

PLEDGE OF ALLEGIANCE

Commissioner Kallen led the Pledge of Allegiance.

1. APPROVAL OF MINUTES

Minutes for the Regular Meeting of August 3, 2016.

Motion by Commissioner Kallen, and seconded by Vice-Chairman Shoup, to approve the Minutes for the Regular Meeting of August 3, 2016, amending the Motion by Commissioner Lamoreaux to "Abstain" under Public Hearing Item No. 2.

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

PUBLIC HEARING ITEMS

2. **Tentative Tract Map No. 17271, Extension of Time No. 1.** This is a request for a time extension of a previously approved subdivision of seventy-three (73) acres into forty-five (45) single-family lots and two (2) open space lots. The lots will range from 18,004 to 51,747 square feet in size. The project is located within the Single-Family Residential (R-SF) and Open Space conservation (OS-C) zoning designations.

Applicant: Mr. Beau Cooper, representing Tao & Kamana 43, LLC

Location: The project site is located at the norther terminus of Tao Road, between Menahka Lane and Kasson Road and bounded to the north by the logical extension of Waalew Road; APN 0473-011-35

Chairman Qualls opened the public hearing at 6:03 p.m.

Ms. Pam Cupp, Associate Planner, presented the staff report as filed by the Planning Division. She requested that the Planning Commission first make a determination that the request for a time extension is valid, and if so, the Commission may approve or deny the request for the Time Extension.

Mr. Thomas Rice, Town Attorney, clarified that the argument by the Developer is due to a typographical error that affected the slope, which made development impossible. In addition, the Developer believes that although the conditions of approval has been amended to allow a 1.5 to 1 slope, the actual approval letter referenced the slope as 5 to 1; therefore, the Developer is asserting that this constitutes a moratorium under Section 66452.6, F1 of the Government Code, under the Subdivision Map Act.

Mr. Rice read into the record Section 66452.6, F1 of the Government Code, which states the following:

For any period during which time there is a development moratorium, which is defined as any period of time during which a condition imposed by the city could not be satisfied because the condition was one that by its nature necessitated action by the city and the city either did not take the necessary action or by its own action or inaction, was prevented or delayed in taking the necessary action prior to the expiration of a tentative map.

Mr. Rice noted if there is no development moratorium, it automatically extends the map period by the length of the moratorium, for a period not-to-exceed five (5) years. He also stated the contention of the Developer is, the 53 days from which they noticed this issue should be an automatic extension because it functioned as a moratorium.

Lengthy discussion ensued regarding the project time lines and the expiration date of the map.

Ms. Carol Miller, Principal Planner, noted the map expiration date is always the approval date.

Ms. Cupp answered questions by the Planning Commission regarding the need to modify the standards should the Applicant be required to submit a new map.

Mr. Beau Cooper, Applicant, commented on the timeline of the project. He explained that, unfortunately, their understanding of the expiration date of the map was in error; therefore, when it came time to submit their request for a time extension, it exceeded the deadline of the filing period.

MOTION:

Motion by Commissioner Lamoreaux, seconded by Commissioner Tinsley, that the application for an extension is timely.

The Motion carried unanimously by voice vote.

Ms. Cupp added that in addition to the slope issues, the conditions of approval additions reflect the mitigation and monitoring program identified in the initial study to ensure these mitigations become part of the permanent conditions of approval. She also commented on the last minute filing by the Fish and Wildlife prior to the initial public hearing that required modifications to the biological mitigations.

Staff read into the record, the following amendments to the staff report:

- Page 2-2, Legislative Time Extensions should read SB 1185 and AB 333.
- Page 2-2, under Government code section should be 66452.6.E.
- Page 2-6, under the first comment, it should read (73) in the parenthesis.
- Page 2-7, No. 6, the maximum slope ratio should be 1.5 to 1.
- Page 2-7, No. 8, under comments to the findings, it should read (73) in the parenthesis.

Ms. Cupp reviewed, for the benefit of the Planning Commission, why the size of the project changed.

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

Mr. Cooper stated he agreed with all Conditions of Approval.

Mr. Cooper commented on the concerns expressed by the owner regarding the retention basin located north of his property, as well as the need to remove the drainage from the street. Mr. Cooper stated there would be a new hydrology report submitted for approval prior to recordation.

Chairman Qualls closed the public hearing at 6:40 p.m.

PUBLIC COMMENT:

None.

Lengthy discussion ensued to determine the extension date, including the 53 days automatic extension under the Subdivision Map Act, as the Planning Commission has determined that this falls under a moratorium.

It was the consensus of the Planning Commission to establish June 7, 2019 as the extension date.

Chairman Qualls asked if there were any members in the public wishing to speak under Public Comments. There was no one wishing to speak under Public Comments.

MOTION

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

1. Determine that, there is no new substantial change in the project or new information that would result in new, significant environmental impacts beyond those identified within the Mitigated Negative Declaration that was prepared for this project, and adopted by the Planning Commission on June 7, 2006. Therefore, pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15162, the proposed request is not subject to further environmental review.
2. Find the Facts presented in the staff report support the required Findings for approval and adopt the Findings.
3. Approve a three (3)-year extension of time for Tentative Tract Map No. 17271, subject to the recommended Conditions of Approval, and establishing June 7, 2019 as the expiration date.
4. Direct Staff to file the Notice of Determination.

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 COMMENT:

None.

PLANNING COMMISSION COMMENTS:

None.

STAFF COMMENTS:

None.

OTHER BUSINESS

3. Carol Miller, Principal Planner, will present the annual review of Development Permit projects administratively approved. This report is available for public review at the Planning Division located at 14955 Dale Evans Parkway, Apple Valley, California. No action is required – to receive and file.

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

This item is receive and file only. No action is required.

4. Subdivision Map Act Violations – Opportunity to Present Evidence to Legislative Body per Government Code/ss 66499.36 Prior to Recordation of Notice of Violation.

Richard Pedersen, Deputy Town Engineer, presented the staff report as filed by the Engineering Department.

Mr. Pedersen stated the Town mailed Notices of Intention to the Owners via certified mail. He also stated the Notices provide an opportunity for any interested Owner to present evidence regarding the Notice of Violation on their maps.

PUBLIC COMMENT:

None.

MOTION:

It was the consensus of the Planning Commission to direct staff to proceed with the intention to record the notice of violation.

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

ADJOURNMENT

Motion by Commissioner Tinsley, seconded by Commissioner Kallen, and unanimously carried to adjourn the meeting of the Planning Commission at 6:49 p.m. to the Regular Meeting on October 19, 2016.

Respectfully Submitted by:



Yvonne Rivera
Planning Commission Secretary

Approved by:



Chairman Doug Qualls