

MINUTES

**TOWN OF APPLE VALLEY
PLANNING COMMISSION
REGULAR MEETING**

December 20, 2017

CALL TO ORDER

Chairman Shoup called to order the regular meeting of the Town of Apple Valley Planning Commission at 6:01 p.m.

Roll Call

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

Staff Present

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

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Carol Miller, Assistant Director of Community Development.

APPROVAL OF MINUTES

1. **Approval of Minutes**
 - a. Regular Meeting of November 1, 2017

MOTION

Motion by Vice-Chairman Tinsley, seconded by Commissioner Kallen, to approve the minutes for Regular Meeting of November 1, 2017.

Vote: Motion carried 3-0-1-1
Yes: Commissioners Kallen; Vice-Chairman Tinsley; Chairman Shoup.
Abstain: Commissioner Lamoreaux
Absent: Commissioner Qualls

PUBLIC COMMENTS

None.

PUBLIC HEARINGS

Carol Miller, Assistant Director of Community Development, requested that the order of Agenda Items be changed so that Agenda Item Number 5 is discussed before Agenda Item Number 4.

Chairman Shoup, with the consensus of the Planning Commission, indicated that Agenda Item Number 5 will be discussed prior to Agenda Item 4.

2. **Conditional Use Permit No. 2017-003** – A request to approve Conditional Use Permit to allow the construction of a fifty-seven (57)-foot high wireless telecommunication facility concealed within a church steeple.

Applicant: Eukon Group for Verizon Wireless

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

Pam Cupp, Associate Planner, presented the staff report as filed with the Planning Division. She noted that the tower as proposed, exceeds the minimum setback requirements. She also noted that the Commission has approved a similar project at this site; however, the project was never followed through and ultimately expired.

Commissioner Kallen questioned why the project name was "Tomahawk".

Tim Miller, on behalf of the Applicant, thanked the Commission for its consideration and explained Verizon's naming convention relative to project locations.

Chairman Shoup questioned if the height of the cross, as shown on Page 2-13, conforms to the sign code.

Ms. Cupp responded that it is considered a decorative feature and not considered a sign; therefore, it is allowed.

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

Mr. Miller stated he was in agreement with the Conditions of Approval.

There being no requests to speak, Chairman Shoup closed the public hearing at 6:10 p.m.

MOTION

Motion by Commissioner Lamoreaux, seconded by Vice-Chairman Tinsley to:

1. Find that pursuant to the California environmental Quality Act (CEQA), Section 15303, class 3, the proposed requires 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 for Conditional Use Permit No. 2017-003.
3. Approve Conditional Use Permit No. 2017-003, subject to the attached Conditions of Approval, as amended.

4. Direct Staff to file the Notice of Exemption.

Vote: Motion carried 4-0-0-1

Yes: Commissioners Kallen; Lamoreaux; Vice-Chairman Tinsley; Chairman Shoup.

Absent: Commissioner Qualls

3. **Conditional Use Permit No. 2017-008.** A request for approval of a Conditional Use Permit to allow the operation of an eight (8)-bed, congregate living health facility. The project will include a 1,452-square foot addition to an existing 2,234 square foot single-family residence. The project site is one (1)-acre in size located within the Estate Residential (R-E) zoning designation.

Applicant: Oak Fence Senior, LLC

Chairman Shoup opened the public hearing at 6:11 p.m.

Pam Cupp, Associate Planner, presented the staff report as filed with the Planning Division. She informed the Commission that there are similar facilities like this in Apple Valley that are permitted by right of zone as licensed by the State of California. She noted this facility is licensed by the Department of Public Health as a sub-acute care facility.

Ms. Cupp answered questions by the Commission regarding the total number of care facilities in Apple Valley with over six (6) beds. She noted that currently there are two (2) licensed facilities in Apple Valley with eight (8) beds that are long-term for the developmentally disabled and they are licensed by the California Department of Public Health. She also answered questions by the Commission regarding the twelve (12) parking spaces required for this proposal, as well as the types of services that will be provided for inpatient care.

Chairman Shoup noted for the record, that the Commission has received an email from Marie Stein Mozet and Ron Dalzell who are in opposition of the proposed project.

Ms. Cupp informed the Commission that the Public Hearing was noticed in the Apple Valley Newspaper and notices were mailed out to the property owners within a 300-foot radius of the project site. She informed the Commission that the email that was on the dais did not receive a notice because they are not within the 300-foot radius.

Thomas Rice, Town Attorney, responded to questions by the Commission regarding whether or not there are legal concerns surrounding the fact that the email from Mr. Dalzell is a request to deny a twelve (12) bed facility when in fact, the proposal is for an eight (8) bed facility. He explained that although a twelve (12) bed application was submitted, staff is only willing to recommend up to eight (8) beds.

Commissioner Kallen indicated that one of the emails references a website that has negative reviews of the Lancaster facility; however, it did not offer any clarification. He would like to know what the negative reviews are.

Mr. Rice explained that the information was not made part of the record; therefore, if the Commission wishes to discuss this matter, he recommends taking a brief recess to allow staff to pull the records in order to discuss them at this time. Otherwise, direction can be given to staff to come back to the Commission with the information to discuss at a future meeting.

Ms. Than Aye, Owner of Oak Fence Senior, LLC, introduced members of the project team. She provided the Commission with an overview of the services provided by the care facility and its approach in helping people. She also commented on the professional contributions that come from each staff member. She respectfully requested that the Commission approve the proposed project.

Ken Blossom, representative of the applicant, spoke in support of the project. He noted that the facility can only accept mentally alert patients that are not physically disabled for a short period of rehabilitation time.

Sara Alexander, Oak Fence Senior, informed the Commission that the facility is licensed by the state. She commented on their work relationship with state and the process of handling the discharging of patients. She also responded to the concerns expressed by the Commission regarding the impact the facility would have on its residents; which she believed would be little to none. She too respectfully requested that the Commission approve the proposed improvements.

Debbie Steele, Oak Fence Senior, spoke in favor of the proposed project. She commented on the services available to patients that are recovering from medical procedures such as hip replacements. She also spoke positively on the environment of the facility where a variety of activities are planned, including caroling at Christmas.

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

Mr. Blossom stated that he agreed with all Conditions of Approval. He also noted that there would be a sprinkler system and generator installed at the facility.

Discussion ensued regarding amending the Conditions of Approval to reduce the square footage of the structure.

Ms. Cupp noted that the plan called for 1,452 square foot, including three (3) bedrooms, one (1) administrative office and a restroom.

Chairman Shoup, with the consensus of the Commission, agreed to move forward with staff's recommendations, with the total structure at 1,452 square feet.

Commission discussion ensued regarding the commercial nature of the business and the potential negative impacts in may have upon the surrounding neighborhood

Commissioner Kallen believes the use would be better suited within a more rural setting on a larger parcel.

Further discussion ensued amongst the Commission regarding concerns related to the proposed project of an eight (8) bed facility, including the addition of a parking lot, heavy traffic, and the requirements for sewer hook-up.

Mr. Rice informed the Commission that the state has prohibited the Town from imposing additional conditions on six (6) bedroom facilities like this one. He also noted that if an Applicant wants to build up to six (6) beds, they can do so as long as they meet all of the Code requirements. Mr. Rice recommended that the Commission continue the public hearing to a date certain on January

17, 2018, to allow staff time to prepare Findings for denial, and to hear from the public and residents again.

Chairman Shoup announced that the public hearing is continued to a date certain on January 17, 2018 at 6:00 p.m.

MOTION

Motion by Commissioner Kallen, and seconded by Commissioner Lamoreaux to continue the public hearing to a date certain on January 17, 2018, for the purposes of staff preparing Findings for denial and having Findings ready for the Planning Commission.

Vote: Motion carried 4-0-0-1

Yes: Commissioners Kallen; Lamoreaux; Vice-Chairman Tinsley; Chairman Shoup.

Absent: Commissioner Qualls

CHAIRMAN SHOUP CALLED FOR A SHORT RECESS OF THE PLANNING COMMISSION MEETING AT 6:54 P.M.

CHAIRMAN SHOUP RECONVENED THE PLANNING COMMISSION MEETING AT 6:59 P.M.

5. **Development Code Amendment No. 2017-003.** An amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code by amending Section 9.71.140 of Chapter 9.71 relating to the Town's acceptance of lien agreements as securities for subdivision improvement agreements.

Applicant: Town of Apple Valley

Chairman Shoup opened the public hearing at 6:59 p.m.

Richard Pedersen, Deputy Engineer, presented the staff report as filed with the Engineering Division. He noted that the sub-division Map Act of the state allows four (4) types of securities, whereas the Development code allows three (3) types of securities; the fourth type of security is required for a final map to be recorded in the event the improvements are not initially constructed. He noted that the types of security include cash, letter of credit, surety bonds and lien agreement. He stated that the inclusion of lien agreement is being recommended.

Gordon Nichols, Building Industry Association, believed that the item is a valuable and useful tool for the Town to allow liens in lieu of bonding or other sureties. He noted that the Town would only use it for onsite improvements; any offsite improvements would be excluded from the lien policy. He also commented on the benefits of the tool stating it is used by the City of Victorville and County of San Bernardino. He recommended that the Town move forward with the acceptance of lien agreements as securities for subdivision improvement agreements.

Discussion ensued regarding the options available to a Developer who would like to subdivide a large parcel in order to sell the lots individually. Mr. Pedersen informed the Commission that a lien agreement would apply to each individual lot; therefore, according to the agreement, they cannot be sold individually.

Thomas Rice, Town Attorney, noted that the Developer would have to build the public improvements for all of the lots.

Mr. Pedersen explained that the Developer would have the option to choose which of the four (4) securities to use. He also commented on the process of redoing the agreement should a developer choose to change the type of security.

Carol Miller, Assistant Director of Community Development, commented on the time allotted for public improvements. She explained that after (3) years, the Developer can apply for an additional three (3) year extension at which time the Developer must do the improvements or it reverts back to acreage.

Mr. Rice responded to questions by Vice-Chairman Tinsley regarding the substitution mechanism. He informed the Commission that there is information provided in Section D4 that serves as a guide for any Developer who may choose to change from one of the three existing mechanisms to a lien.

Mr. Rice made the following edits to Section D as follows:

Page 5-12: Subdivision D5, iii, shall be revised to read "Be executed by the Mayor *or his or her Designee* on behalf of the Town, and by all current record owner(s) of the property to be divided (or in the case of a substitute security, all owners of the Undeveloped Lots), as evidenced by the title insurance policy and report specified in Section 9.71.140.B.5.d.5.i, above."

Mr. Rice noted that the above edit is in case the lien agreements go to the Town Council for Approval and in the event the Mayor not be present, the Mayor Pro Tem or other Council Member could sign in their absence.

Page 5-13: Subdivision D7, i, the third line shall be edited to read "...Section 9.71.140.B.5.a through 9.71.140.b.5.c and Section 9.71.140.B.7..."

Page 5-13: Subdivision D7, ii, the third line shall be edited to read "...Section 9.71.140.B.5.c...."

Page 5-15: Section 13 under Sunset Provision, he clarified that specific dates will be inserted at the time the item goes before the Town Council for a first reading, second reading for adoption following 30 days.

Mr. Rice commented on the mechanism in the ordinance that allows Developers who have used the first three (3) types of securities, to transition to get the lien agreement as an alternative would have to go through the process and the lien agreement would have to be approved by Council.

Andrew Pham, Nupac Investments, commented on their efforts to preserve the Ravenswood Project following the lapse of the automatic time extension. He informed the Commission that all of the offsite improvements have been done and they anticipate they will be able to sell it; however, they are in need of an uptake in the market. He also noted that the map will expire at the beginning of next year; therefore, they have been working closely with BIA and Town staff to try to come up with a tool that can work for their project.

Chairman Shoup closed the public hearing at 7:18 p.m.

MOTION

Motion by Commissioner Lamoreaux, and seconded by Vice-Chairman Tinsley that:

Following receipt of public input and discussion by the Commission, it is recommended that the Commission move to approve Planning Commission Resolution No. 2017-004, 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, including the change to Section D by the Town Attorney.

Vote: Motion carried 4-0-0-1

Yes: Commissioners Kallen; Lamoreaux; Vice-Chairman Tinsley; Chairman Shoup.

Absent: Commissioner Qualls

4. **Development Code Amendment No. 2017-001.** An amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code that will amend Chapters 9.28 "Residential Districts", 9.29 "Specific Use Regulations for Residential Districts" and 9.31 "Residential Design Standards" and 9.72 "Off-Street Parking Regulations" relating to multi-family residential development standards.

Applicant: Town of Apple Valley

Commissioner Lamoreaux announced that he had a potential conflict of interest on this item; therefore, he recused himself from voting on this item.

COMMISSIONER LAMOREAUX RECUSED HIMSELF FROM THE REMAINDER OF THE PLANNING COMMISSION MEETING AT 7:20 P.M.

Chairman Shoup opened the public hearing at 7:20 p.m.

Carol Miller, Assistant Director of Community Development, presented the staff report as filed with the Planning Division. She noted that this item was continued from the December 6, 2017 Planning Commission meeting.

Ms. Miller reviewed the direction received by consensus of the Commission at the last meeting.

1. Reduce the unit size by 25% for projects 5 or more
2. Reduce the unit size by 15 % for projects of 2 to 4 units
3. Keep the garage requirements for projects including duplexes to 4-plexes
4. Provide literature regarding the projects in Hesperia and Victorville

Ms. Miller informed the Commission that staff has included an exhibit of the square footage under the Analysis Section of the report.

Chairman Shoup would like to see a minimum of a one car garage on smaller units. He would also like to keep a garage as an acceptable amenity for future development.

Commissioner Kallen also spoke in favor of building units to include garages. He commented on some of the benefits of a garage including the ability to use them for storage and parking.

After a lengthy discussion regarding unit size recommendations, it was the consensus of the Planning Commission to move forward with staff's recommendations, with an amendment to the garage requirements as follows:

- One 1-car garage for a studio
- One 1-car garage for 1 bedroom
- Two 2-car garages for 2-3 bedrooms
- 200 square foot per unit to be devoted to open space and amenities

Kerri Leon, Agio Real Estate, stated that she is currently working on the development of two (2) new apartment complexes. She indicated that she would like to share the information discussed on unit size recommendations to the Architect, to see if it will help with his design.

Chairman Shoup stated that the public hearing will remain open.

MOTION

Motion by Vice-Chairman Tinsley, and seconded by Commissioner Kallen to:

Continue the public hearing to a date certain on January 17, 2018, where it will come back in the form of a Planning Commission Resolution, and will include language for the exemption to the General Plan Amendment.

Vote: Motion carried 4-0-0-2

Yes: Commissioners Kallen; Vice-Chairman Tinsley; Chairman Shoup.

Absent: Commissioners Lamoreaux; Qualls

OTHER BUSINESS

None.

PLANNING COMMISSION COMMENTS

None.

STAFF COMMENTS

None.

ADJOURNMENT

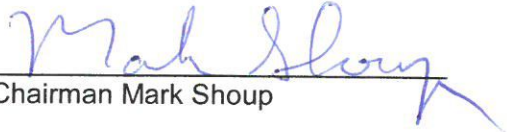
Motion by Vice-Chairman Tinsley, seconded by Commissioner Kallen, and unanimously carried, to adjourn the meeting of the Planning Commission at 7:35 p.m. to its next regularly scheduled meeting on January 17, 2018.

Respectfully Submitted by:



Yvonne Rivera
Planning Secretary

Approved by:



Chairman Mark Shoup