

**MINUTES**

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

**May 16, 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 Doug Qualls; Mark Shoup; Vice-Chairman Jason Lamoreaux; Chairman B.R. "Bob" Tinsley

Absent: Commissioner Bruce Kallen

Staff Present

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

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Commissioner Qualls.

**APPROVAL OF MINUTES**

**1. Approval of Minutes**

**1a.** Minutes for the Regular Meeting of March 21, 2018.

**MOTION**

Motion by Vice-Chairman Lamoreaux, seconded by Commissioner Qualls, to approve the minutes for the Regular Meeting of March 21, 2018.

Vote: Motion carried 3-0-1-1

Yes: Commissioners Qualls; Vice-Chairman Lamoreaux; Chairman Tinsley.

Absent: Commissioner Kallen

Abstain: Commissioner Shoup

**1b. Minutes for the Regular Meeting of April 4, 2018.**

Commissioner Shoup would like the following modification made to Paragraph 4 on Page 1B-4, for the minutes of April 4, 2018:

*“Commissioner Shoup would like an amendment made to the variance that required more landscaping and fewer parking spaces.”*

**MOTION**

Motion by Vice-Chairman Lamoreaux, seconded by Commissioner Shoup, to approve the minutes for the Regular Meeting of April 4, 2018, as amended.

Vote: Motion carried 4-0-1-0

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

Absent: Commissioner Kallen

Discussion ensued amongst Commissioners Lamoreaux and Tinsley regarding the need to abstain from voting on Agenda Item No. 1c, as both were absent for the meeting of April 18, 2018.

Thomas Rice, Town Attorney, acknowledged that Vice-Chairman Lamoreaux retracted his vote to abstain. He explained, for the benefit of the Commission, that although Commissioners Lamoreaux and Tinsley were absent, they may still participate on voting on Agenda Item No. 1c, for the purpose of recognizing the minutes of April 18, 2018 as being true and accurate.

**1c. Minutes for the Regular Meeting of April 18, 2018.**

**MOTION**

Motion by Vice-Chairman Lamoreaux, seconded by Commissioner Shoup, to approve the minutes for the Regular Meeting of April 18, 2018.

Vote: Motion carried 4-0-1-0

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

Absent: Commissioner Kallen

**PUBLIC COMMENTS**

**PUBLIC HEARINGS**

2. **Conditional Use Permit No. 2017-006 and Deviation Permit No. 2018-003.** A request for approval of a Conditional Use Permit to install a sixty (60)-foot tall wireless telecommunications tower designed as a eucalyptus tree. The tower will be situated adjacent to the parks parking area and will include a 240 square foot CMU block wall equipment enclosure within a 440 square-foot lease area. The Deviation is a request for a reduced separation distance from residential uses, existing wireless telecommunication tower and landscape buffer.

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

Vice-Chairman Lamoreaux announced that he had a potential conflict of interest on this item. Therefore, he recused himself from voting on this item.

**VICE-CHAIRMAN LAMOREAUX EXCUSED HIMSELF FROM THE DAIS AT 6:06 P.M.**

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

Carol Miller, Assistant Director of Community Development, presented the staff report as filed with the Planning Division. She noted that staff had received letters of opposition from one citizen dated May 7 and May 10, and that an additional letter was received prior to the commencement of the meeting. She noted that the citizen expressed concern regarding electromagnetic frequencies (EMFs). She reminded the Commission that the Town does not have the ability to deny telecommunication facilities based on EMF's due to the fact that they are regulated by the Federal Government.

At the request of the Commission, Ms. Miller read into the record the minor deviation request as follows:

*"The Code requires a minimum 1,000-foot separation to adjacent single-family residential, and as a preferred location, the required separation can be reduced by fifty (50%)."*

Ms. Miller provided the Commission with an overview of the proposed locations for the cell tower. She noted that the park, school district, and fire district properties are the only preferred locations in this area. She also noted that regardless of which lot is selected as the preferred location, a Deviation would more than likely be required.

Commissioner Shoup requested to know whether or not federal law permits local jurisdictions to consider a Deviation for projects that involve EMFs.

Thomas Rice, Town Attorney, explained why federal law does not permit local governments to consider EMFs in any capacity for these types of applications. He also read into the record Section 3.32 of the Telecommunications Act which prohibits local jurisdictions from regulating the placement, construction and modification of personal

wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commissions for regulations consuming such emissions. He also noted that Condition P7 before the Commission tonight, is a requirement that they comply with those regulations.

Linda Repp, Apple Valley, spoke in opposition of the project. She explained the reasons why she believed the cell tower would be harmful to the health and welfare of children that play at the school. She respectfully requested that the Commission deny the project.

Maria Gordon, Apple Valley, questioned the location that was selected by staff for the proposed cell tower. She believed it was too close to the school, and that it can potentially cause harm to the health and welfare of the children.

Matthew Schulenberg, Apple Valley Unified School District, commented on the setback requirements for this project. He also commented on the potential danger of a structural failure that may impact the school site, causing the school district to be concerned for the safety of the students and staff members. He stated that due to the proximity of the cell tower to the school site, the school district would like to request that the Commission require DSA approval for the proposed structure, or consider relocating the cell tower so that the potential fall zone would not impact the school site.

Commissioner Shoup asked Mr. Schulenberg whether or not the school had a position on the cell tower.

Mr. Schulenberg responded, "The School District is taking no position on this agenda item."

Bryce Novak, J5 Infrastructure Partners, answered questions by the Commission regarding the selection process for the location of the cell tower. He informed the Commission that the original proposal was for stadium lighting for the ballpark; however, staff did not support any of the proposed locations or design.

Ms. Miller answered questions by the Commission regarding the original renditions that were submitted, and the reasons why they were not approved by staff.

Mr. Novak commented on the requirements for a fall zone mentioned by Mr. Schulenberg. He stated that he would be happy to work with staff on alternate locations; however, the proposed cell tower is allowed to be within a fall zone.

A lengthy discussion ensued regarding the issues with the proximity of the cell tower to the school. Also discussed was the possibility of relocating the cell tower to a location that falls outside of the fall zone.

Commissioner Qualls asked a series of questions regarding the difference in standards for a cell tower that is built by Verizon vs. one that is built according to DSA requirements.

Mr. Novak commented on the review process according to DSA regulations. He noted, for the record, that the proposed project is subject to the International Building Code only. He also clarified that the fall zone requirements for cell towers are not required to go through DSA review.

Ms. Miller commented on the wireless telecommunication facilities that are located within Town limits.

Discussion ensued regarding alternatives to the proposed location of the cell tower, including increasing the setbacks from the school property.

Commissioner Shoup asked questions regarding the proposed cell tower as shown on Page 2-4 that is located near the entrance gate of the park.

Ms. Miller answered questions by the Commission regarding the height of the light standards as shown on Page 2-23, in comparison to the height of the proposed tower.

Commissioner Qualls questioned whether or not the school district would have a concern regarding the light standards in terms of structural failure, as it is located closer to the school.

Ms. Miller noted that the light standards are located on the property line.

Mr. Novak responded to questions by the Commission regarding the LA Unified School District banning the construction of cell towers. He noted for the record, that the construction of cell towers is permitted by most school districts, as well as Southern California Edison. He stated that the construction of a cell tower is a policy decision.

There being no one further wishing to speak, Chairman Tinsley closed the public hearing at 6:45 p.m.

A member of the audience requested to speak; therefore, Chairman Tinsley re-opened the public hearing at 6:46 p.m.

Ms. Repp, Apple Valley, thanked the Commission for their concern on this issue. She stated that this issue is more involved than a policy by the LA Unified School District; it is based on numerous medical studies. She also informed the Commission that there are three (3) gates at this location where people can enter the park. She stated that she is opposed to the project.

Ms. Gordon, Apple Valley, also reiterated her concerns as to the selection of the proposed location of the cell tower. She expressed concern regarding the health risks to the children who are near the cell tower. She also believed there are other alternatives to the hard wire proposed as part of the project for wifi services.

Mr. Novak commented on the search train information included in the staff report. He stated there is a need to close the gap for cell service between Bear Valley Road and Ridgeline Road. He noted that the surrounding parcels were zoned residential, which does not permit the construction of cell towers. He said that this represents exactly where the search train was issued by the VZ radio frequency engineers. He also addressed the concerns regarding EMFs. He noted, for the benefit of the Commission and public, that the FCC governs the maximum emissions in an effort to protect the health and welfare of all people.

Chairman Tinsley reminded the members of the public that the Town is not legally capable of considering any issues surrounding EMFs.

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

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

There being no one else in the audience wishing to speak, Chairman Tinsley closed the public hearing at 6:50 p.m.

Commissioner Qualls requested to know if there are two different standards for fall zones.

Ms. Miller informed the Commission that according to code, the Town is not subject to fall zone requirements, only separation requirements.

Chairman Tinsley commented on the proposed project, as well as the concerns expressed by the speakers tonight. He stated that the Town's priority is the health and safety of its residents.

Commissioner Qualls commented on the design of the cell tower as a eucalyptus tree with a leaf pattern. He stated that he would like to see other designs for the cell tower.

Ms. Miller stated that she would be happy to meet with the Applicant to revisit the current design of the cell tower.

### **MOTION**

Motion by Commissioner Shoup, and seconded by Commissioner Qualls 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. 2017-006 and Deviation Permit No. 2018-003 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 No. 2017-006 and Deviation Permit No. 2018-003.

3. Approval Conditional Use Permit No. 2017-006 and Deviation Permit No. 2018-003, subject to the attached Conditions of Approval.
4. Direct staff to file the Notice of Exemption.

Vote: Motion carried 3-0-1-1

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

Noes: None

Abstain: Vice-Chairman Lamoreaux

Absent: Commissioner Kallen

**VICE-CHAIRMAN LAMOREAUX RETURNED TO THE DAIS AT 6:56 P.M.**

**OTHER BUSINESS**

None.

**PLANNING COMMISSION COMMENTS**

None.

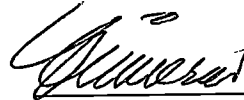
**STAFF COMMENTS**

None

**ADJOURNMENT**

Motion by Vice-Chairman Lamoreaux, seconded by Commissioner Shoup, and unanimously carried, to adjourn the meeting of the Planning Commission at 6:57 p.m. to its next regularly scheduled meeting on June 20, 2018.

Respectfully Submitted by:



Yvonne Rivera  
Planning Secretary

Approved by:



Chairman B.R. "Bob" Tinsley