



SPECIAL APPLE VALLEY TOWN COUNCIL

1777 N Meadowlark Dr, Apple Valley
Wednesday, December 15, 2021 at 6:00 PM

MINUTES

Mayor | Dale Beddo |

Council Members | Kevin Sair | Mike McLaughlin | Marty Lisonbee |

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENT

Council Member Kevin Sair

Council Member Marty Lisonbee

Council Member Michael McLaughlin

Mayor Dale Beddo

Mayor Beddo commented that Paul Edwardsen has resigned from his seat of Town Council.

DECLARATION OF CONFLICTS OF INTEREST

None declared.

DISCUSSION AND ACTION

1. DISCUSSION AND POSSIBLE ACTION ON RESOLUTION R-2021-11: A RESOLUTION EXEMPTING PUBLIC UTILITY STRUCTURES FROM BUILDING HEIGHT RESTRICTIONS.
2. DISCUSSION AND POSSIBLE ACTION ON RESOLUTION R-2021-21: A RESOLUTION FOR APPOINTMENT OF TOWN CLERK AND RECORDER FOR THE TOWN OF APPLE VALLEY.

Mayor Beddo commented that agenda items # 1 and 2 would be removed from agenda and addressed through an ordinance amendment.

3. DISCUSSION AND POSSIBLE ACTION ON ZONE CHANGE APPLICATION FOR AV-1365-E FROM OPEN SPACE TO RE-10: APPLICANT DENNIS CLARK. PC RECOMMENDED 5-0.

MOTION: Council Member Sair motioned that we accept the application for AV-1365-E from Open Space to RE-10 for applicant Dennis Clark.

SECOND: The motion was seconded by Mayor Beddo.

VOTE: Mayor Beddo called for a vote:

Council Member Sair - Aye

Council Member Lisonbee - Aye

Council Member McLaughlin - Aye

Mayor Beddo - Aye

The vote was unanimous and the motion carried.



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4. DISCUSSION AND POSSIBLE ACTION ON ZONE CHANGE APPLICATION FOR AV-1313-D-1 FROM AGRICULTURE TO SF-.50: APPLICANT 2000 MAIN LLC. PC RECOMMENDED 5-0 AT 12.1.21 MEETING WITH ACERAGE 70.84 AV-1313-D-1.

Council Member Lisonbee commented about the discrepancy in price and parcels that need to be worked out. Mayor Beddo and Council Member Lisonbee commented on the discrepancy of the acreage shown on the map. The Town Attorney Dayton Hall commented to be clear on the motion and that the council has the discretion to request the zone map to be changed. Council Member McLaughlin commented that he has issue with half acre lot size, the general plan showed 1-5 acres, and issues with water and sewer.

MOTION: Council Member Lisonbee motioned to go ahead and approve AV-1313-D-1.

Mayor Beddo stopped the motion for additional comments from the Council.

SECOND: No second, motion died and did not carry.

Mayor Beddo asked Town Attorney Dayton Hall if the General Plan is a guideline or ordinance. Town Attorney Dayton Hall commented, State code requires a Town adopt a General Plan. He continued; the General Plan is advisory unless the Town enforces it by an Ordinance. Apple Valley has not done that and the General Plan in Apple Valley is advisory. The General Plan is a guide to the Town as the Town develops.

MOTION: Council Member Sair motioned we deny AV-1313-D-1 from agricultural to SF half acre single family lot for the following reasons; first of all, it's not consistent with the Town's General Plan of 1 to 5 acres. Number two, this area of Town is best suited for larger lots, especially with the Goulds Wash running through, right through the middle of this property. I'm also concerned that we don't have adequate services at this time to be able to handle a project of this size. Not saying that you don't have some things in the future but I need to see what all that is.

Mayor Beddo commented before we take a second on the motion, he asked the applicant if they would rather have the application tabled or denied. Town Attorney Dayton Hall commented there are four things you can do with an application. He continued, you can have a majority vote to approve it, majority vote to deny, majority vote to table/continue, or you have none of that. If you can't get a majority vote to do any of those things then under State law it's deemed denied for failure of majority vote to approve the application. For a denied application the applicant can reapply after a year or if there's substantial changes in circumstances then they can do it sooner than a year.



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SECOND: No second, motion died and does not carry.

MOTION: Council Member Lisonbee motioned that we table the project.

SECOND: The motion was seconded by Mayor Beddo.

VOTE: Mayor Beddo called for a vote:

Council Member Sair - Aye
Council Member Lisonbee - Nay
Council Member McLaughlin - Aye
Mayor Beddo - Aye

The vote was three aye and one nay and the motion carried.

5. DISCUSSION AND POSSIBLE ACTION ON PRELIMINARY PLAT APPLICATION FOR LOT AV-1-3-5-211: APPLICANT ALLRED HEBER.

Mayor Beddo commented on the legal challenges with this application. He continued, the zone change was recommended for approval by Planning Commission and sent to Town Council for approval as well as this agenda item for the preliminary plat application. The Town Council made a recommendation on the preliminary plat application and sent it back to the Planning Commission to change some of the half-acre lots and have them switched to one acre. Also, for a Planned Development (PD) Agreement. However, since then, we have determined that the zone change was approved for half acre lots and we may lack the ability to require the applicant to change to one acre lots.

There was an issue with the audio recording from 40:26 until 43:54 when audio recording resumed.

Town Attorney Dayton Hall commented the zone is what was voted on which is half acre, C2 commercial, and tourist commercial. He continued, even though we may wish we would have done a planned development, that is not what was done and the zone is what it is. Then a preliminary plat came in, the council tabled it, and then ended back at the Planning Commission. A recommendation has been made by the Planning Commission on the application on October 6, 2021. The legal question is, may you act on this tonight and the answer is yes in his opinion because you do have a recommendation on this application from the Planning Commission. It would be appropriate to await the decision from the Planning Commission to allow their input. You could also approve with conditions if you feel you've had a fair chance to look it over. Those are your options and the council gets to decide the best way to go about it is. Council Member Lisonbee commented he feels the application needs to be tabled because the amended map was not in the packet before the meeting.



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MOTION: Council Member Sair motioned that we deny this plat for AV-1-3-5-211 for the following reasons because the Planning Commission did table this and it was not forwarded to the Town Council. Preliminary plat application cannot be used for property that includes both a residential subdivision and this type of commercial property on the same plat, no phasing was included. The recent zoning change needed to be researched and clarified as it appears to match what's on the proposed preliminary plat.

SECOND: The motion was seconded by Council Member McLaughlin.

VOTE: Mayor Beddo called for a vote:

Council Member Sair - Aye
Council Member Lisonbee - Nay
Council Member McLaughlin - Aye
Mayor Beddo - Nay

The vote was two aye and two nay and the motion was not carried.

MOTION: Council Member Lisonbee motioned that we table the project to go back to the Planning Commission since it's on their desk anyway and let Karl start over with them on what it takes working with Frank or whatever to make them happy if that's even possible. And, I think tabling it is the right thing because that gives the applicant the chance to make it right with Frank and the Planning Commission and let it go its course again through that process instead of trying to squash their rights.

SECOND: The motion was seconded by Mayor Beddo.

VOTE: Mayor Beddo called for a vote:

Council Member Sair - Nay
Council Member Lisonbee - Aye
Council Member McLaughlin - Aye
Mayor Beddo - Aye

The vote was three aye and the motion carried.

6. REQUEST FOR A CLOSED SESSION

MOTION: Mayor Beddo motioned that we go into a closed session to discuss litigation.

SECOND: The motion was seconded by Council Member Lisonbee.

VOTE: Mayor Beddo called for a Roll Call vote:



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Council Member Sair - Nay
Council Member Lisonbee - Aye
Council Member McLaughlin - Aye
Mayor Beddo - Aye

The vote was three aye and one nay and the motion carried.

7. DISCUSSION AND POSSIBLE ACTION ZONE CHANGE APPLICATION FOR LOT AV-1329-B FROM OPEN SPACE TO SF-1.0: APPLICANT LADD MACDONALD

Mayor Beddo commented, this item went before Planning Commission and after action was taken the applicant have asked for Town Council to review their application.

Marty makes motion to table DISCUSSION AND POSSIBLE ACTION ZONE CHANGE APPLICATION FOR LOT AV-1329-B FROM OPEN SPACE TO SF-1.0: APPLICANT LADD MACDONALD

Council Member Lisonbee commented that the Town has received an email from the applicant with intent to file a lawsuit. He continued; I think that we would like the applicant to provide some sort of evidence that says this was R1 property. The Town Attorney Dayton Hall commented because the Planning Commission made a recommendation of denial, this application will not go back to the Planning Commission for Zone Change and ultimately the Town Council will rule on this application.

MOTION: Council Member Lisonbee motioned that we table this zone change on application on lot AV-1329-B from Open Space to SF1 acre by applicant Ladd Macdonald, pending further information from that we asked for, which is evidence that shows that this was one acre lots at some point and allow us time to do our own research as well, that 'be my motion.

SECOND: The motion was seconded by Council Member McLaughlin.

VOTE: Mayor Beddo called for a vote:

Council Member Sair - Nay
Council Member Lisonbee - Aye
Council Member McLaughlin - Aye
Mayor Beddo - Aye

The vote was three aye and one nay and the motion carried.

8. DISCUSSION AND POSSIBLE ACTION ON PRELIMINARY PLAT APPLICATION FOR LOT AV-1329-B: APPLICANT LADD MACDONALD



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MOTION: Mayor Beddo motioned that we table line item eight, discussion of preliminary plat application for lot AV-1329-B applicant Ladd Macdonald until such time as item number seven can be addressed.

SECOND: The motion was seconded by Council Member Lisonbee.

VOTE: Mayor Beddo called for a vote:

Council Member Sair - Aye
Council Member Lisonbee - Aye
Council Member McLaughlin - Aye
Mayor Beddo - Aye

The vote was unanimous and the motion carried.

ADJOURNMENT

MOTION: Council Member Lisonbee motioned to adjourn the meeting.

SECOND: The motion was seconded by Mayor Beddo.

VOTE: Mayor Beddo called for a vote:

Council Member Sair - Aye
Council Member Lisonbee - Aye
Council Member McLaughlin - Aye
Mayor Beddo - Aye

The vote was unanimous and the motion carried.

The meeting was adjourned at 7:44 p.m.

Date Approved: _____



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Approved BY: _____

Mayor | Frank G. Lindhardt

Attest BY: _____

Town Clerk/Recorder | Jenna Vizcardo

DRAFT