

**TOWN OF  
APPLE VALLEY, CALIFORNIA**

**AGENDA MATTER**

**Subject Item:**

**A REQUEST SHALL BE PRESENTED TO THE TOWN COUNCIL TO AMEND TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE BY AMENDING VARIOUS SECTIONS OF THE CODE AS THEY RELATE TO GIVING THE AUTHORITY TO THE ECONOMIC AND COMMUNITY DEVELOPMENT DIRECTOR TO REVIEW AND APPROVE DEVELOPMENT PERMITS FOR COMMERCIAL, OFFICE AND INDUSTRIAL DEVELOPMENT (INDUSTRIAL PROJECTS OUTSIDE THE NORTH APPLE VALLEY INDUSTRIAL SPECIFIC PLAN) FOR PROJECTS LESS THAN 50,000 SQUARE FEET IN SIZE WITHIN CODE SECTION 9.17 “DEVELOPMENT PERMITS”.**

**Recommended Action:**

**Move to open the public hearing and take testimony.  
Close the public hearing. Then:**

1. **Determine** that, pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), the project is exempt from environmental review, stating that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA.
2. **Find** the facts presented within the staff report support the required Findings for approval of an amendment to the Development Code, and adopt the Findings.
3. **Find** that the proposed Town Council Ordinance is consistent with the Goals and Objectives of the adopted Town of Apple Valley General Plan and that it is necessary to preserve the health, safety and general welfare of the citizens of Apple Valley.
4. **Move** to waive the reading of Ordinance No. 377 in its entirety and read by title only.
5. **Introduce** Ordinance No. 377, amending various sections of the Code as they relate to giving the authority to the Economic and Community Development Director to review and approve Development Permits for commercial, office and industrial development (industrial projects outside the North Apple Valley Industrial Specific Plan) for projects less than 50,000 square feet in size within Code Section 9.17 “Development Permits”.
6. **Direct** staff to file a Notice of Exemption.

**Proposed by:**           Planning Division          

**Item Number** \_\_\_\_\_

**Town Manager Approval:** \_\_\_\_\_

**Budget Item**  Yes  No

**Summary Statement:**

At the direction of the Council at its meeting of September 11, 2007, Development Code Amendment No. 2007-021 was initiated to modify the authority for reviewing and approving Development Permits for commercial, office and industrial projects (industrial projects outside the North Apple Valley Industrial Specific Plan) of less than 50,000 square feet. On May 9, 2006, the Town Council adopted Ordinance No. 312, which gives the review and approval authority of Development Permits to the Director of Economic and Community Development for commercial, office and industrial projects less than 25,000 square feet in size. On September 11, 2007, the Council directed staff to initiate a Development Code Amendment that would expand this provision to commercial, office and industrial projects up to 50,000 square feet in size.

On August 15, 2007 the Planning Commission reviewed the annual Development Permit report, which identified that twenty-three (23) commercial, office or industrial projects of less than 25,000 square feet were approved administratively since June 2006. This report was forwarded to the Town Council at its meeting on September 11, 2007. Mayor Pro Tem Jasper stated that he wanted to see the administrative review/approval process expanded to 50,000 square feet. During the period of June 2006 and July 2007, three (3) commercial, office or industrial projects between 25,000 square feet and 50,000 square feet were approved by the Planning Commission. This recommended Development Code Amendment would allow these projects to be approved administratively by the Director of Economic and Community Development. The Town Council concurred with Mayor Pro Tem Jasper and initiated this Development Code Amendment.

The Planning Commission adopted Planning Commission Resolution 2007-027 on December 5, 2007, which recommends that the Town Council implement the described modifications to the Development Permit process.

**REQUIRED FINDINGS**

An amendment to the Development Code requires that the Planning Commission address two required "Findings" as listed within Development Code Section 9.06.060. As presented within past staff reports, the required Findings are listed below, along with a comment addressing each, for Council consideration. If the Council concurs with these comments, they may be adopted as part of this Development Code Amendment. If the Council wishes modifications to the offered comments after considering input and public testimony at the public hearing, modifications to the Findings and Code Amendment recommendations can be included in the adopted Development Code Amendment.

Required "Findings":

A. The proposed amendment is consistent with the General Plan; and

Comment: The General Plan provides the basic framework for land development within the Town of Apple Valley, with the Development Code setting the specific standards and criteria to fulfill the General Plan's Goals and Policies. The proposed Code Amendment shall establish specific standards and criteria

needed to process Development Permits. The changes proposed to the Development Code, in modifying the review and approval authority for Development Permits, applies appropriate Code provisions, thereby, protecting the property values and providing an improved living environment for Apple Valley residents.

B. The proposed amendment will not be detrimental to the public health, safety or welfare of the Town or its residents.

Comment: Amending the Code as proposed under Development Code Amendment No. 2007-021 will amend the Town’s Development Code by modifying the review and approval authority for the Development Permit process. The proposal provides specific restrictions and limitations for the Development Permit process to address any potential impacts of future Development Permit applications. These changes are minor in nature and shall allow the Director of Economic and Community Development the authority to review small commercial, office and industrial projects. Thus, the amendment proposed shall result in a change to the Code that addresses the community’s living environment, while providing for the health, safety and general welfare of the citizens of the Town of Apple Valley.

**NOTICING**

Development Code Amendment No. 2007-021 was advertised as a public hearing in the Apple Valley News newspaper on February 15, 2007, as required under Development Code Section 9.13.030 “Notice of Public Hearings”.

**ENVIRONMENTAL REVIEW**

Staff has determined that the project is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State Guidelines to Implement CEQA, which states that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. As with the proposed amendment that shall only result in a minor change to the Code, where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA.

**RECOMMENDATION**

Following receipt of public input and discussion by the Council, it is recommended that the Council move to introduce Ordinance No. \_\_\_\_\_, amending various sections of the Code as they relate to giving the authority to the Economic and Community Development Director to review and approve Development Permits for commercial, office and industrial development (industrial projects outside the North Apple Valley Industrial Specific Plan) for projects of less than 50,000 square feet in size within Code Section 9.17 “Development Permits”.

Attachments:

- Planning Commission Resolution No. 2007-027
- Draft Ordinance No. \_\_\_\_\_

**PLANNING COMMISSION RESOLUTION No. 2007-027**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL AMEND TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE BY AMENDING VARIOUS SECTIONS OF THE CODE AS THEY RELATE TO GIVING THE AUTHORITY TO THE ECONOMIC AND COMMUNITY DEVELOPMENT DIRECTOR TO REVIEW AND APPROVE DEVELOPMENT PERMITS FOR SMALL COMMERCIAL, OFFICE AND INDUSTRIAL DEVELOPMENT THAT IS LESS THAN 50,000 SQUARE FEET IN SIZE WITHIN CODE SECTION 9.17 “DEVELOPMENT PERMITS”.**

**WHEREAS**, Title 9 “Development Code” of the Municipal Code of the Town of Apple Valley was adopted by the Town Council on October 24, 2000; and

**WHEREAS**, Title 9 “Development Code” of the Municipal Code of the Town of Apple Valley has been previously modified by the Town Council on the recommendation of the Planning Commission; and

**WHEREAS**, specific changes are proposed to Title 9 “Development Code” of the Town of Apple Valley Municipal Code by amending various sections of the Code as they relate to the processing of a Development Permit application for a project anywhere within the Town of Apple Valley. The proposed amendment gives authority to the Economic and Community Development Director to review and approve Development Permits for small commercial, office and industrial development that is less than 50,000 square feet in size within Code Section 9.17 “Development Permits”; and

**WHEREAS**, on November 23, 2007, Development Code Amendment No. 2007-021 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

**WHEREAS**, pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be determined that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is EXEMPT from further CEQA review; and

**WHEREAS**, on December 5, 2007, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2007-021, receiving testimony from the public; and

**WHEREAS**, Development Code Amendment No. 2007-021 is consistent with Title 9 “Development Code” of the Municipal Code of the Town of Apple Valley and shall

promote the health, safety and general welfare of the citizens of the Town of Apple Valley.

**NOW, THEREFORE, BE IT RESOLVED** that in consideration of the evidence presented at the public hearing, and for the reasons discussed by the Commissioners at said hearing, the Planning Commission of the Town of Apple Valley, California, does hereby resolve, order and determine as follows and recommends that the Town Council make the following findings and take the following actions:

**Section 1.** Find that the changes proposed by Development Code Amendment No. 2007 021 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

**Section 2.** Pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be determined that the Code amendment is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty, as with the proposed Code Amendment, that there is no possibility that the proposal approved under Development Code Amendment No. 2007-021 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

**Section 3.** Amend paragraph 1 of subsection A and paragraph 2 of subsection B of Section 9.17.020 “Applicability” of Chapter 9.17 “Development Permits” of the Town of Apple Valley Development Code to read as follows:

**9.17.020 Applicability**

A Development Permit allows for the architectural/aesthetic review of structures permitted by this Code for the various zoning districts. A Development Permit is not required if a Conditional Use Permit has been submitted and approved where the Commission has addressed the aesthetics and site design issues required under a Development Permit.

A. A Development Permit approved by the Director shall be required for:

1. All new commercial, office and industrial development below 50,000 square feet.

B. A Development Permit approved by the Planning Commission shall be required for:

2. All new commercial, office and industrial development 50,000 square feet and above.

Approved and Adopted by the Planning Commission of the Town of Apple Valley this 5th day of December, 2007.

\_\_\_\_\_  
David Hernandez, Chairman

ATTEST:

I, Patty Hevle, Secretary to the Planning Commission of the Town of Apple Valley, California, do hereby certify that the foregoing Planning Commission Resolution No. 2007-027 was duly and regularly adopted by the Planning Commission at a regular meeting thereof, held on the 5th day of December, 2007, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Patty Hevle, Planning Commission Secretary

**ORDINANCE NO. 377**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY AMENDING VARIOUS SECTIONS OF THE CODE AS THEY RELATE TO GIVING THE AUTHORITY TO THE ECONOMIC AND COMMUNITY DEVELOPMENT DIRECTOR TO REVIEW AND APPROVE DEVELOPMENT PERMITS FOR SMALL COMMERCIAL, OFFICE AND INDUSTRIAL DEVELOPMENT THAT IS LESS THAN 50,000 SQUARE FEET IN SIZE WITHIN CODE SECTION 9.17 “DEVELOPMENT PERMITS”.**

The Town Council of the Town of Apple Valley, State of California, does ordain as follows:

**Section 1. Recitals.**

(i) Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley was adopted by the Town Council on October 24, 2000; and

(ii) Title 9 “Development Code” of the Municipal Code of the Town of Apple Valley has been previously modified by the Town Council on the recommendation of the Planning Commission; and

(iii) Specific changes to Title 9 “Development Code” of the Town of Apple Valley Municipal Code include amending paragraph 1 of subsection A and paragraph 2 of subsection B of Section 9.17.020 “Applicability” of Chapter 9.17 “Development Permits” as it relates to giving the Economic and Community Development Director the authority to review and approve Development Permits for the small commercial, office and industrial development that is less than 50,000 square feet in size.

(iv) On February 15, 2008, Development Code Amendment No. 2007-021 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

(v) The project is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State Guidelines to Implement CEQA, which states that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA; and

(vi) On December 5, 2007 the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised the public hearing on Development Code Amendment No. 2007-021, receiving testimony from the public and adopted

Planning Commission Resolution No. 2007-027 recommending adoption of this Ordinance; and

(vii) Development Code Amendment No. 2007-021 is consistent with Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley and shall promote the health, safety and general welfare of the citizens of the Town of Apple Valley.

**Section 2. Findings.**

(i) Find that the changes proposed by Development Code Amendment No. 2007-021 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

(ii) Find that, based upon the State Guidelines to Implement the California Environmental Quality Act (CEQA), the project is exempt from further environmental review. Section 15061(b)(3), states that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA

**Section 3.** Amend paragraph 1 of subsection A and paragraph 2 of subsection B of Section 9.17.020 “Applicability” of Chapter 9.17 “Development Permits” of the Town of Apple Valley Development Code to read as follows:

**9.17.020 Applicability**

A Development Permit allows for the architectural/aesthetic review of structures permitted by this Code for the various zoning districts. A Development Permit is not required if a Conditional Use Permit has been submitted and approved where the Commission has addressed the aesthetics and site design issues required under a Development Permit.

A. A Development Permit approved by the Director shall be required for:

1. All new commercial, office and industrial development below 50,000 square feet.

B. A Development Permit approved by the Planning Commission shall be required for:

2. All new commercial, office and industrial development 50,000 square feet and above.

**Section 4. Invalidation.** The amendment by this Ordinance of Title 9 “Development Code” of the Town of Apple Valley Municipal Code as previously in effect, or of any other prior enactment, shall not be construed to invalidate any



entitlement exercised or proceeding taken pursuant to such Title or other enactment while the same was in effect.

**Section 5. Notice of Adoption.** The Town Clerk of the Town of Apple Valley shall certify to the adoption of this ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the Town in a manner permitted under Section 36933 of the Government Code of the State of California.

**Section 6. Effective Date.** This Ordinance shall become effective thirty (30) days after the date of its adoption.

**Section 7. Severability.** If any provision of this Ordinance, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications and, to this end, the provisions of this Ordinance are declared to be severable.

Adopted by the Town Council and signed by the Mayor and attested by the Town Clerk this \_\_\_\_ day of March, 2008.

\_\_\_\_\_  
Honorable Timothy Jasper, Mayor

ATTEST:

\_\_\_\_\_  
La Vonda M-Pearson, Town Clerk

Approved as to form:

Approved as to content:

\_\_\_\_\_  
Mr. Neal Singer, Town Attorney

\_\_\_\_\_  
Mr. James L. Cox, Town Manager