



TOWN OF APPLE VALLEY TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council **Date:** February 11, 2014
From: Lori Lamson **Item No:** 10
 Community Development Director
Subject: Discussion of Churches and Assembly Uses located in Commercial Zones

T.M. Approval: _____ **Budgeted Item:** Yes No N/A

RECOMMENDED ACTION:

Provide staff with direction regarding proceeding with a Development Code Amendment.

SUMMARY AND BACKGROUND:

At the December 10, 2013 meeting, Council Member Nassif requested that the issue of prohibiting assembly uses, including churches, in commercial areas be agendaized for discussion. In 2006, the Town Council adopted a Development Code Amendment that restricted assembly uses within the commercial zones with the exception of the Office-Professional (O-P) Zone and industrial zones. Assembly uses are permitted in these zones, as well as, residential zones, with the approval of a Conditional Use Permit (CUP). Assembly use is defined as the following:

Places of Assembly -

shall include public and private institutions, such as religious uses, lodges, clubs, senior citizen centers, youth centers, community centers and YMCA/YWCA facilities.

This definition was modified in 2006 to comply with the 2000 Federal Act of Religious Land Use and Institutionalized Persons, requiring that places of worship must be treated the same as private or public clubs and lodges.

The Act prohibits zoning laws that 1). Treat churches or other religious assemblies or institutions on less than equal terms with non-religious institutions; 2). Discriminate against any assemblies or institutions on the basis of religion or religious denomination; 3). Totally exclude religious assemblies from jurisdiction; or 4). Unreasonably limit religious assemblies, institutions, or structures within a jurisdiction.

DISCUSSION:

The reasoning for the Development Code Amendment in 2006 was to encourage the location of churches and assembly uses where they would not conflict with surrounding land uses. This includes maintaining the synergy of the commercial areas by protecting the employment, retail and service-oriented environment and keeping commercial properties on the tax roll. Removal of commercial land from the tax rolls has a direct impact upon the community in general by reducing the property tax revenues received and, thus, funds available for community services and maintenance.

At the time, the amendment came after the approval of a large commercial center that included a church on the hard corner of the development. This commercial center was never fully completed and the church was never constructed. However, there was concern at the time, that the current Development Code allowed this non-commercial use at the prime corner of this important commercial property and would define the center and possibly disrupt retail and service synergy.

Over ninety (90) percent of the Town's land use includes residential, Office-Professional (O-P) and industrial zoning, which provides an ample opportunity for assembly uses to locate in these areas. The Commercial areas are less than ten (10) percent of the Town's overall zoning and in 2006 the discussion included the desire to protect these areas for traditional employment, service and retail uses. Assembly uses within commercial areas can have potential conflicts between existing and future uses, such as traffic, parking and hours of operation. Location of assembly uses traditionally has been predominantly in the residential areas allows these facilities within close proximity to those individuals that it would serve.

Contrary to this train of thought, some communities with an abundance of commercial areas, have found that any potential impacts to commercial uses is somewhat mitigated within commercial or office areas. This is because, generally, such areas have street systems better able to handle the peak traffic flows from churches or other types of assembly uses, and are better able to tolerate the impacts from late evening or early morning activities, such as bible classes and other types of church related events.

One aspect of this subject that was not discussed in 2006 was the idea of allowing assembly uses as an ancillary use to the commercial use, within a commercial zone. This might be seen in a school that rents out its facilities to a group congregating on the weekend when school is not in session. Or a banquet or conference facility, may want to provide an opportunity for a club or congregation to meet during non-peak hours of the facility. Additionally, theaters may want to open their facility to organizations to meet on a regular basis during non-peak hours.

If it is the desire of the Council to consider such an opportunity for assembly uses to operate as an ancillary use in these commercial venues, a Development Code Amendment could be considered to address these issues and also address any potential conflicts with the requirement of a use permit. In 2006, Development standards for Churches and Places of Assembly were created as part of the amendment at the time, which addressed site standards for development in residential, Office-Professional and Industrial zones. If the Town Council decides to modify the location regulations of primary assembly uses or ancillary assembly uses, these development standards would need to be modified.

FISCAL IMPACT:

Not Applicable