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TOWN OF APPLE VALLEY PLANNING COMMISSION

Staff Report

AGENDA DATE:	April 2, 2014
CASE NUMBER:	Development Code Amendment No. 2014-001
APPLICANT:	Town of Apple Valley
PROPOSAL:	An amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code by amending Chapters 9.08, 9.28, 9.29 and 9.35 regarding assembly uses within the commercial zones as an ancillary use to a primary use..
LOCATION:	Town-wide
ENVIRONMENTAL DETERMINATION:	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. 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.
PROJECT PLANNER:	Ms. Carol Miller, Senior Planner
RECOMMENDATION:	Adopt Planning Commission Resolution No. 2013-012.

BACKGROUND

On February 11, 2014, the Town Council initiated an amendment to the Development Code to consider amending the Town's churches and assembly use standards. Staff was directed by the Council, to work with the Planning Commission to consider the issue of assembly uses within commercial areas as an ancillary use to any school or commercial use that could accommodate the assemblage of people, such as a theater, community center, banquet facility or restaurant.

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) Zones. Assembly uses are permitted in the O-P Zone, as well as, residential zones with the approval of a Conditional Use Permit (CUP). The reasoning for the amendment 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.

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.

DISCUSSION

One aspect of this subject that was not discussed in 2006 was the idea of allowing assembly uses as an ancillary use to a 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.

Allowing assembly uses as an ancillary use within the commercial zones beyond the O-P zone, will increase the opportunity for places of assembly within existing facilities during non-peak hours of the primary use while preserving the integrity of the underlying commercial zoning. However, for this to be implemented, a Development Code Amendment is necessary on to modify the Commercial Land Use Table to allow the assemblage of people as an ancillary use and create specific use regulations to establish standards by which these uses would be permitted.

The Development Code currently defines assembly and ancillary uses as the following:

Places of Assembly - *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.*

Ancillary Use - *A use incidental to and customarily associated with a specific principal use and located on the same lot or parcel.*

A place of assembly as currently defined does not need to be modified. However, ancillary use as currently defined does require amending since this definition requires the ancillary use to be associated with the primary use. In most cases the assemblage of people as an ancillary use would not necessarily be associated with the primary use. Therefore, it is recommended that the definition be amended as follows:

Ancillary Use - *A use that is accessory to a principal use ~~incidental to and customarily associated with a specific principal use and located on the same lot or parcel.~~*

It is recommended that Table 9.35.030-A "Permitted Uses" of the Code be amended to read as follows:

Table 9.35.030-A Permitted Uses

TYPE OF USE ⁽¹⁾	DISTRICT ⁽¹⁾					
	O-P	C-G	C-S	C-R	C-V	M-U
E. Accessory Uses ⁽⁴⁾						
6. Places of assembly as an ancillary use (subject to Chapter 9.36 of this Code)	SUP	SUP	SUP	SUP	SUP	SUP

To ensure an assembly use as an ancillary use does not impact the function of the primary use or adjacent land uses, staff is recommending standards that regulate the assembly use. The typical issues related to assembly uses involve parking, traffic, and noise. However, under the review of a Special Use Permit (SUP) and the establishment of regulations, the concern of parking, traffic and noise will be addressed. Therefore, staff is recommending Section 9.36.220 *Places of Assembly As An Ancillary Use* to read as follows:

9.36.220 PLACES OF ASSEMBLY AS AN ANCILLARY USE

A. Permit Required. A place of assembly as an ancillary use may be allowed in any commercial district provided a Special Use Permit is approved for the use and provided the use complies with the following regulations and standards.

B. General Standards The following general standards shall apply:

1. The place of assembly as an ancillary use is permitted provided the primary use is a school or commercial service facility that accommodates the assemblage of people such as a theater, auditorium, community center, banquet facility or restaurant.
2. The ancillary use may only operate during off-peak hours of the primary use or not more than one (1) day of the week for a commercial service facility.
3. The site shall have sufficient on-site parking to accommodate the ancillary use. The primary and ancillary use may not operate concurrently unless parking is provided for both uses in accordance with the Off-Street Parking Regulations.
4. The site must have a valid certificate of occupancy to allow the assemblage of people.
5. The site shall have paved access.
6. The use shall be conducted indoors and in a manner that is in compliance with Chapter 9.73 *Noise Control*.

C. Compatibility. The ancillary use shall be located within the existing site to minimize adverse impacts upon surrounding uses and function of the primary use.

D. Other Conditions. Additional or different conditions or restrictions, including but not limited to, restrictions on intensity, seating capacity, parking, hours of operation may be placed on any place of assembly as an ancillary use to meet specific concerns.

FINDINGS:

An Amendment to the Development Code requires that the Planning Commission address two (2) required "Findings", as listed within Development Code Section 9.06.060. For Commission consideration, the required Findings are listed below, along with a comment addressing each. If the Commission concurs with these comments, it may be adopted and forward its recommendation to the Council for consideration of the Development Code Amendment. If the Commission wishes to modify the offered comments, after considering input and public testimony at the public hearing, modifications to the Findings and Code Amendment recommendations can be included into the information forwarded to the Council for consideration.

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 allows ancillary assembly uses as a permitted use which provides additional opportunities for the assemblage of people while preserving the integrity of the commercial zoning. The change proposed to the Development Code is consistent with the General Plan and provides a community service, while still protecting the property values and providing an improved living environment for all 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: The proposed Development Code Amendment will amend the Development Code requirements to allow an assembly use as an ancillary use within existing facilities. With the proposed standards, potential impacts on adjacent properties will be minimized. Therefore, the Amendment will not be detrimental to the health, safety or general welfare of the citizens or visitors of the Town of Apple Valley.

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. 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 Commission, it is recommended that the Commission move to approve Planning Commission Resolution No. 2014-002, 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.

Prepared by:

Reviewed By:

Carol Miller
Senior Planner

Lori Lamson
Community Development Director

ATTACHMENTS:

1. Planning Commission Resolution No. 2014-002

PLANNING COMMISSION RESOLUTION NO. 2014-002

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL ADOPT DEVELOPMENT CODE AMENDMENT NO. 2014-001 AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY AMENDING CHAPTERS 9.08, 9.35 AND 9.36 AS IT RELATES TO PLACES OF ASSEMBLY AS AN ANCILLARY USE.

WHEREAS, Title 9 “Development Code” of the Municipal Code of the Town of Apple Valley was adopted by the Town Council on April 27, 2010; 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 to Chapter 9.08 “Definitions” of Title 9 “Development Code” of the Apple Valley Municipal Code as it relates to the definition of ancillary use; and

WHEREAS, Specific changes to Table 9.35.030-A “Permitted Uses”, of Title 9 “Development Code” of the Apple Valley Municipal Code as it relates to “Accessory Uses” ; and

WHEREAS, Specific changes to Chapter 9.36 “Specific Use Regulations/ Commercial and Office” of Title 9 “Development Code” of the Apple Valley Municipal Code as it relates to adding provisions for assembly uses as an ancillary use; and

WHEREAS, On March 21, 2014, Development Code Amendment No. 2014-001 was duly noticed in the Apple valley News, a newspaper of general circulation within the Town of Apple Valley; and

WHEREAS, 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

WHEREAS, On April 2, 2014, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2014-001, receiving testimony from the public and adopted Planning Commission Resolution No. 2014-002 recommending adoption of this Ordinance; and

WHEREAS, Development Code Amendment No. 2014-001 is consistent with the Town’s General Plan and 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, finds and determines 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. 2014-001 is 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. 2014-001 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

Section 3. Amend Chapter 9.08 “Definitions” of the Development Code to amend the definition of “Ancillary Use” to read as follows:

ANCILLARY USE

A use that is accessory to a principal use located on the same lot or parcel.

Section 4. Amend Table 9.35.030-A “Permitted Uses”, subsection E “Accessory Uses” of the Code by adding subsection 6 “Places of Assembly as an Ancillary Use” to read as follows:

Table 9.35.030-A Permitted Uses

TYPE OF USE ⁽¹⁾	DISTRICT ⁽¹⁾					
	O-P	C-G	C-S	C-R	C-V	M-U
<i>E. Accessory Uses</i> ⁽⁴⁾						
6. Places of assembly as an ancillary use (<i>subject to Chapter 9.36 of this Code</i>)	SUP	SUP	SUP	SUP	SUP	SUP

Section 5. Amend Chapter 9.36 “Specific Use Regulations/Commercial and Office Districts” of the Code by adding subsection 9.36.220 “Places of Assembly as an Ancillary Use” to read as follows:

9.36.220 PLACES OF ASSEMBLY AS AN ANCILLARY USE

A. Permit Required. A place of assembly as an ancillary use to a school or commercial use that accommodates the assemblage of people such as a theater, auditorium, community center, banquet facility or restaurant may be allowed in any commercial district provided a Special Use Permit is approved for the use and provided the use complies with the following regulations and standards.

B. General Standards The following general standards shall apply:

1. The place of assembly as an ancillary use is permitted provided the primary use is a school or commercial service facility that accommodates the assemblage of people such as a theater, auditorium, community center, banquet facility or restaurant.
2. The use may only operate during off-peak hours of the primary use or not more than one (1) day of the week for a commercial service facility.
3. The site shall have sufficient on-site parking to accommodate the ancillary use. The primary and ancillary use may not operate concurrently unless parking is provided for both uses in accordance with the Off-Street Parking Regulations.
4. The site must have a valid certificate of occupancy to allow the assemblage of people.
5. The site shall have paved access.

6. The use shall be conducted indoors and in a manner that is in compliance with Chapter 9.73 *Noise Control*.
- C. Compatibility.** The ancillary use shall be located within the existing site to minimize adverse impacts upon surrounding uses and function of the primary use.
- D. Other Conditions.** Additional or different conditions or restrictions, including but not limited to, restrictions on intensity, seating capacity, parking, hours of operation may be placed on any place of assembly as an ancillary use to meet specific concerns.

Approved and Adopted by the Planning Commission of the Town of Apple Valley this 2nd day of April 2014.

Chairman Bruce Kallen

ATTEST:

I, Debra Thomas, Secretary to the Planning Commission of the Town of Apple Valley, California, do hereby certify that the foregoing resolution was duly and regularly adopted by the Planning Commission at a regular meeting thereof, held on the 2nd day of April 2014 by the following vote, to-wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Ms. Debra Thomas, Planning Commission Secretary