



# TOWN OF APPLE VALLEY

## TOWN COUNCIL STAFF REPORT

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**To:** Honorable Mayor and Town Council      **Date:** August 25, 2015  
**From:** Lori Lamson, Assistant Town Manager      **Item No:** 2  
**Subject:** ADOPT ORDINANCE NO. 473, AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, TO MODIFY TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE BY AMENDING CHAPTER 9.25 "DEVIATION PERMITS" AND CHAPTER 9.35 "COMMERCIAL DISTRICTS" AS IT PERTAINS TO ALLOWING A REDUCTION IN LANDSCAPING AND SETBACK REQUIREMENTS FOR THE DEVELOPMENT OF SUBSTANDARD COMMERCIAL LOTS

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

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### RECOMMENDED ACTION:

Adopt Ordinance No. 473.

### SUMMARY:

At its August 11, 2015 meeting, the Town Council reviewed and introduced Ordinance No. 473, amending Chapter 9.25 of the Town of Apple Valley Municipal Code as it pertains to allowing a reduction in landscaping and setback requirements for the development of substandard commercial lots. Ordinance No. 473 has been scheduled for adoption at the August 25, 2015 Town Council meeting.

### FISCAL IMPACT:

Not Applicable

### ATTACHMENTS:

Ordinance No. 473

**ORDINANCE NO. 473**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING CHAPTER 9.25 "DEVIATION PERMITS" AND CHAPTER 9.35 "COMMERCIAL DISTRICTS" AS IT PERTAINS TO ALLOWING A REDUCTION IN LANDSCAPING AND SETBACK REQUIREMENTS FOR THE DEVELOPMENT OF SUBSTANDARD COMMERCIAL LOTS**

**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 9.25 "Deviation Permits" and Chapter 9.35 "Commercial Districts" as it pertains to allowing a reduction in landscaping and setback requirements for the development of substandard commercial lots; 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 July 1, 2015, the Planning Commission of the Town of Apple Valley conducted a duly noticed public hearing on Development Code Amendment No. 2015-003, receiving testimony from the public and adopting Planning Commission Resolution No. 2015-006 forwarding a recommendation to the Council; and

**WHEREAS**, on August 11, 2015, the Town Council of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2015-003, receiving testimony from the public.

**NOW, THEREFORE**, the Town Council of the Town of Apple Valley, State of California, does ordain as follows:

**Section 1.** Find that the changes proposed by Development Code Amendment No. 2015-003 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. 2015-003 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

**Section 3.** Amend Section 9.25.030 "Standards" of Chapter 9.25 "Deviation Permits" of the Development Code to add subsection E. as follows:

**E.** For substandard vacant and developed commercial lots in all Commercial Districts, deviations to one or all of the following standards may be allowed:

1. Reduction of landscape planter width in areas adjacent to parking areas or drive aisles no less than a minimum of two (2) feet in width. (Section 9.72.060.B.8.a and b)
2. Reduction in the minimum landscape area of the site from ten (10) percent to no less than five (5) percent. (Section 9.35.040.A.14)
3. Maximum ten (10) percent reduction for interior side setbacks and a twenty (20) percent reduction for rear setbacks.

**Section 4.** Amend Section 9.72.060.B by amending paragraphs a and b of subsection 8 to include references at the end of the paragraph that state the following:

- a. ...Refer to Section 9.25.030. E for deviations to this requirement.
- b. ...Refer to Section 9.25.030. E for deviations to this requirement.

**Section 5.** Amend Section 9.35.040 A by amending footnote (11) to include a reference at the end of the footnote that states the following:

- (11) ...Refer to Section 9.25.030. E for deviations to this requirement.

**Section 6.** Amend Section 9.35.040 A by amending footnote (3) to include a reference at the end of the footnote that states the following:

- (3) ... Refer to Section 9.25.030. E for deviations to this requirement.

**Section 7.** 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 8.** Effective Date. This Ordinance shall become effective thirty (30) days after the date of its adoption.

**Section 9.** 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.

**APPROVED** and **ADOPTED** by the Town Council and signed by the Mayor and attested to by the Town Clerk this 25th day of August, 2015.

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Larry Cusack, Mayor

**ATTEST:**

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La Vonda M. Pearson, Town Clerk

**APPROVED AS TO FORM:**

**APPROVED AS TO CONTENT:**

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John Brown, Town Attorney

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Frank Robinson, Town Manager