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**TOWN OF APPLE VALLEY  
PLANNING COMMISSION AGENDA**

**WEDNESDAY, DECEMBER 21, 2016**

**Regular Meeting 6:00 p.m.**

***Town Council Chambers***  
**14955 Dale Evans Parkway**

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**PLANNING COMMISSION MEMBERS**

Doug Qualls, Chairman  
Mark Shoup, Vice-Chairman  
Jason Lamoreaux, Commissioner  
Bruce Kallen, Commissioner  
B. R. "Bob" Tinsley, Commissioner

**PLANNING DIVISION OFFICE: (760) 240-7000 Ext. 7200**  
**[www.AVPlanning.org](http://www.AVPlanning.org)**

***Monday - Thursday 7:30 a.m. to 5:30 p.m.***  
***Alternating Fridays 7:30 a.m. to 4:30 p.m.***



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**TOWN OF APPLE VALLEY  
PLANNING COMMISSION AGENDA  
REGULAR MEETING  
WEDNESDAY December 21, 2016 – 6:00 P.M.**

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PUBLIC PARTICIPATION IS INVITED. Planning Commission meetings are held in the Town Council Chambers located at 14955 Dale Evans Parkway, Apple Valley, California. If you wish to be heard on any item on the agenda during the Commission's consideration of that item, or earlier if determined by the Commission, please so indicate by filling out a "REQUEST TO SPEAK" form at the Commission meeting. Place the request in the Speaker Request Box on the table near the Secretary, or hand it to the Secretary at the Commission meeting. (G.C. 54954.3 {a}).

Materials related to an item on this agenda, submitted to the Commission after distribution of the agenda packet, are available for public inspection in the Town Clerk's Office at 14955 Dale Evans Parkway, Apple Valley, CA during normal business hours. Such documents are also available on the Town of Apple Valley website at [www.applevalley.org](http://www.applevalley.org) subject to staff's ability to post the documents before the meeting.

*The Town of Apple Valley recognizes its obligation to provide equal access to those individuals with disabilities. Please contact the Town Clerk's Office, at (760) 240-7000, two working days prior to the scheduled meeting for any requests for reasonable accommodations.*

**REGULAR MEETING**

The Regular meeting is open to the public and will begin at 6:00 p.m.

**CALL TO ORDER**

**ROLL CALL**

Commissioners: Lamoreaux \_\_\_\_\_; Kallen \_\_\_\_\_; Tinsley \_\_\_\_\_  
Vice-Chairman Shoup \_\_\_\_\_ and Chairman Qualls \_\_\_\_\_

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF MINUTES**

1. Minutes for the Regular Meeting of November 16, 2016.

## **PUBLIC COMMENTS**

Anyone wishing to address an item not on the agenda, or an item that is not scheduled for a public hearing at this meeting, may do so at this time. California State Law does not allow the Commission to act on items not on the agenda, except in very limited circumstances. Your concerns may be referred to staff or placed on a future agenda.

## **PUBLIC HEARING ITEMS**

2.

**Applicant:** Town of Apple Valley  
**Location:** Town-wide Ranchos Residential Overlay District

### **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.

**Recommendation:** Adopt Planning Commission Resolution No. 2016-008

## **OTHER BUSINESS**

## **PLANNING COMMISSION COMMENTS**

## **STAFF COMMENTS**

## **ADJOURNMENT**

The Planning Commission meeting of January 4, 2017 has been cancelled. Planning Commission will reconvene for a Special Meeting on January 11, 2017.

## **MINUTES**

### **TOWN OF APPLE VALLEY PLANNING COMMISSION Regular Meeting Wednesday, November 16, 2016**

#### **CALL TO ORDER**

Chairman Qualls called to order the Regular Meeting of the Planning Commission of the Town of Apple Valley for November 16, 2016 at 6:00 p.m.

#### **ROLL CALL**

##### **Planning Commission**

Roll call was taken with the following members present: Commissioner Bruce Kallen, Commissioner Jason Lamoreaux, Commissioner B.R. "Bob" Tinsley, Vice-Chairman Mark Shoup and Chairman Doug Qualls. Absent: None.

#### **STAFF PRESENT**

Carol Miller, Principal Planner, Pam Cupp, Associate Planner, Thomas Rice, Town Attorney, and Yvonne Rivera, Planning Commission Secretary.

#### **PLEDGE OF ALLEGIANCE**

Commissioner Lamoreaux led the Pledge of Allegiance.

#### **1. APPROVAL OF MINUTES**

Minutes for the Regular Meeting of October 19, 2016.

Commissioner Lamoreaux commented on a change in the Minutes on Page 1-6.

Motion by Commissioner Kallen, and seconded by Vice-Chairman Shoup, to approve the Minutes for the Regular Meeting of October 19, 2016, as amended.

Motion carried by the following vote: Ayes: Commissioner Kallen, Vice-Chairman Shoup and Chairman Qualls. Noes: None. Absent: None. Abstain: Commissioner Lamoreaux, and Commissioner Tinsley.

#### **PUBLIC HEARING ITEMS**

2. **Tentative Tract Map No. 18118 Time Extension.** This is a request for a time extension of a previously approved subdivision of fifty-eight (58) single-family residential lots in the Residential Single-Family (R-SF) zoning designation for future residential development.

**Applicant:** MLS Realtors, Inc.

**Location:** The project site is located at the northeast corner of Mesquite and Nisqually Roads; APN: 0439-421-33

Chairman Qualls opened the public hearing at 6:04 p.m.

Ms. Carol Miller, Principal Planner, presented the staff report as filed by the Planning Division.

Mr. John Koko, MLS Realtors, expressed his appreciation to staff for their assistance with the extension.

Chairman Qualls asked the Applicant if he agreed to the Conditions of Approval.

Mr. Koko stated he agreed with all Conditions of Approval.

Chairman Qualls closed the public hearing at 6:09 p.m.

Vice-Chairman Shoup requested to know if there is a provision in place for this Tract Map as it relates to school bussing. He also questioned the practice of parking.

Ms. Miller stated that any issues surrounding parking are not the responsibility of the applicant to solve, the school district. She also commented on the improvements made on Mesquite Road.

#### **PUBLIC COMMENT:**

None.

#### **MOTION**

Motion by Commissioner Tinsley, seconded by Vice-Chairman Shoup, that the Planning Commission move to:

1. Determine that, there is no new substantial change in the project or new information that would result in new, significant environmental impacts beyond those identified within the Mitigated Negative Declaration that was prepared for this project, and adopted by the Planning Commission on November 15, 2006. Therefore, pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15162, the proposed requires is not subject to further environmental review.

2. Find the facts presented in the staff report support the required Findings for approval and adopt the Findings.
3. Approve a three (3)-year extension of time for Tentative Tract Map No. 18118, subject to the attached, Conditions of Approval, as amended.
4. Direct Staff to file the Notice of Determination.

**ROLL CALL VOTE**

Ayes:           Commissioner Kallen  
                   Commissioner Lamoreaux  
                   Commissioner Tinsley  
                   Vice-Chairman Shoup  
                   Chairman Qualls

Noes:           None

Abstain:       None

Absent:        None

The motion carried by a 5-0-0-0 vote.

3. **Tentative Parcel Map No. 19705.** This is a request to subdivide 4.67 acres into four (4) parcels, and one (1) remainder lot, for future residential development. The project is located within the Single-Family Residential (R-SF) zoning designation.  
**Applicant:** Cubit Engineering, representing CJC Holding and Torberet, LLC  
**Location:** The project is located at the southeast corner of Mana and Aniwa Roads; and the eastern terminus of Branding Iron Road; APN: 0473-141-74.

Chairman Qualls opened the public hearing at 6:13 p.m.

Ms. Pam Cupp, Associate Planner, presented the staff report as filed by the Planning Division. Ms. Cupp also included a request to delete Condition of Approval P15 in its entirety.

Discussion ensued regarding the subdivision of land into four (4) parcels with one remainder lot.

Mr. Thomas Brown, Town Attorney, clarified that the Map Act allows you to subdivide a parcel of land to create a lot of land into multiple parcels, and leave a remainder. He explained that in this case, it was decided to subdivide into four (4) parcels with a remainder. He also commented on the categorical exception under CEQA applies to four (4) parcels, which is applicable here.

Chairman Qualls asked the applicant if he agreed with all Conditions of Approval.

Mr. Chris Connors, Applicant, stated he agreed with the Conditions of Approval, including the modification by Ms. Cupp, to delete Condition of Approval P15 on Page 3-7 in its entirety.

Mr. Rice would also like to omit Liberty Utilities Conditions of Approval LU1 through LU9 listed on Page 3-10. He explained that according to Condition P2, the Applicant is simply required to attain water service; so rather than stating Liberty Conditions in full, it is simply required that the Applicant apply with Liberty conditions.

Ms. Cupp commented on a change to Condition EC 4, it states, "Branding Iron Road adjacent to the property shall be improved to the Town's half-width Local Street (Cul-de-sac) standards". The correction should read "full-width".

Chairman Qualls closed the public hearing at 6:27 p.m.

**PUBLIC COMMENT:**

Mr. Martin Mc Nulty, Apple Valley, asked a series of questions regarding the waiver for curbs. He also commented on the parking issues on Mana Road.

Mr. Connors, Applicant, clarified they are not requesting any waivers as it relates to curbs, only sidewalks along Branding Iron Road. He also commented on the Development Plan for different housing elevations for the four (4) lots, as well as the different accesses into the four (4) lots.

Lengthy discussion ensued regarding future development of homes on the four (4) parcels and the ability to sell them separately, as well as the elevations at the project site.

Ms. Cupp informed the Planning Commissioners that should they wish to review the elevations, staff would come back with a Development Permit for the Planning Commission's approval. However, at this time, staff is recommending they follow the plotting and design criteria for the four (4) lots.

**MOTION:**

Motion by Commissioner Kallen, seconded by Vice-Chairman Shoup, to delete Conditions P15 and LU1 through LU9, and amend Condition EC5 as recommended by staff and that the Planning Commission move to:

1. Find that pursuant to the California Environmental Quality Act (CEQA), Section 15315, the proposed request is Exempt from further environmental review.
2. Find the Facts presented in the staff report support the required Findings for approval and adopt the Findings.
3. Approve Tentative Parcel Map No. 19705, subject to the attached Conditions of Approval as amended.
4. Direct Staff to file the Notice of Exemption.

**ROLL CALL VOTE**

Ayes:           Commissioner Kallen  
                   Commissioner Lamoreaux  
                   Commissioner Tinsley  
                   Vice-Chairman Shoup  
                   Chairman Qualls

Noes:           None

Abstain:       None

Absent:        None

The motion carried by a 5-0-0-0 vote.

4.    **Development Code Amendment No. 2016-004.** This is a request to consider an amendment to Title 9 “Development Code” by modifying Chapter 9.25 “Deviation Permits”; Chapter 9.28 “Residential Districts”; Chapter 9.35 “Commercial Districts”; and Chapter 9.63 “Ranchos Residential Overlay District” as it pertains to setback reduction procedures within the Ranchos Residential Overlay District.  
       **Applicant:** Town of Apple Valley  
       **Location:** Town-wide Ranchos Residential Overlay District

Chairman Qualls opened the public hearing at 6:45 p.m.

Ms. Pam Cupp, Associate Planner, presented the report as filed by the Planning Division. Graphics were presented depicting potential encroachments within various zoning districts.

During discussions related to the properties located within the Ranchos Residential Overlay District (RRO), Counsel suggested that the meeting be temporarily adjourned to determine if any of the Planning Commissioners that live within the RRO have a conflict of interest.

**MEETING ADJOURNED**



The Planning Commission meeting temporarily adjourned at 6:43 p.m., to determine if any of the Planning Commissioners have a conflict of interest as it relates to this item.

### **MEETING RECONVENED**

Chairman Qualls reconvened the meeting of the regular meeting of the Planning Commission at 6:53 p.m. It was determined that the RRO includes over fifty (50) percent of all residential lots within the Town of Apple Valley. Therefore, there was not conflict of interest among the Planning Commissioners.

Lengthy discussion ensued regarding issues surrounding setback constraints within the RRO that would prevent residential development.

Mr. Thomas Rice, Town Attorney, clarified, for the benefit of the Planning Commission, the difference between a deviation process vs. a variance for commercial and residential projects.

It was the consensus of the Planning Commission to amend staff's recommended actions as follows:

- An unenclosed addition to an existing single-family residence may encroach up to ten (10) feet into the required front or street side yard setback, not to exceed the minimum setback for the zoning district, with a Deviation Permit.
- Commercial and multi-family projects may encroach into the required front or street side yard setback, not to exceed the minimum setback for the zoning district, with a Deviation Permit.

Chairman Qualls closed the public hearing at 7:38 p.m.

### **PUBLIC COMMENT:**

None.

### **MOTION**

Motion by Commissioner Lamoreaux, seconded by Commissioner Kallen, that the Planning Commission move to continue this item to the next Planning Commission meeting on December 21, 2016.

### **ROLL CALL VOTE**

Ayes:            Commissioner Kallen

Commissioner Lamoreaux  
Commissioner Tinsley  
Vice-Chairman Shoup  
Chairman Qualls

Noes: None  
Abstain: None  
Absent: None

The motion carried by a 5-0-0-0 vote.

**PUBLIC COMMENT:**

None.

**PLANNING COMMISSION COMMENTS:**

None.

**STAFF COMMENTS:**

Ms. Carol Miller, Principal Planner, announced there will be a future meeting held to discuss an upcoming project. She noted that the Town Council has requested that each member of the Planning Commission be present at the meeting.

**OTHER BUSINESS**

**5. Action on Subdivision Map Act Violations.**

Mr. Richard Pedersen, Deputy Town Engineer, presented the staff report as filed by the Engineering Division. He noted that three (3) properties have been identified as being out of compliance.

Lengthy discussion ensued regarding the clouding of Title due to tax sales.

Mr. Thomas Rice, Town Attorney, clarified that the recorded owners were given the notice of intention to file because they are out of compliance for not making the necessary improvements to these recorded maps within the time required.

Commissioner Tinsley believed that the legal disclosures to the buyer should be available as part of the conditions.

Commissioner Lamoreaux announced that he had a potential conflict of interest on this item and therefore recused himself from voting on this item.

Commissioner Lamoreaux recused himself from the dais at 7:47 p.m.

Mr. Pedersen noted, for the record, that all of the owners received the Notice of the Planning Commission meeting via registered mail.

**PUBLIC COMMENT:**

None.

**MOTION**

Motion by Vice-Chairman Shoup, seconded by Commissioner Kallen, that the Planning Commission move to:

1. Provide the Owner an opportunity to contest the notice of violation and to present evidence to the Planning Commission as to why the notice of violation should not be recorded. If, after the Owner has been presented evidence, the Planning Commission determines that there has been no violation, the Town will mail a clearance letter to the Owner. If, after the Owner has presented evidence, the Planning Commission determines that the property has in fact been illegally divided, the Town will record the notice of violation for record with the County Recorder's Office for the County of San Bernardino.

If the Owner does not appear to present evidence and/or if the Planning Commission determines that a property has been illegally divided after considering evidence presented by the Owner, staff recommends that the Planning Commission provide direction and authorize recordation of notices of violation against the violating property (ies).

**ROLL CALL VOTE**

Ayes:	Commissioner Kallen Commissioner Tinsley Vice-Chairman Shoup Chairman Qualls
Noes:	None
Abstain:	Commissioner Lamoreaux
Absent:	None

The motion carried by a 4-0-1-0 vote.

Commissioner Lamoreaux returned to the dais at 7:52 p.m.

6. **Development Code Interpretation No. 2016-001 regarding Section 9.28.120 "Fences Walls and Hedges"**

Ms. Pam Cupp, Associate Planner, lead a discussion pertaining to Development Code Interpretation No. 2016-001 regarding Section 9.28.120 "Fences Walls and Hedges.

Ms. Cupp informed the Planning Commission that staff is looking for concurrence that the powder coated wire fence, as outlined on Page 6-2, is appropriate at six (6) feet.

After lengthy discussion, it was the consensus of the Planning Commission that the proposed fencing material is not appropriate at six (6) foot height. However, the example of the fence as shown on the top of Page 6-3 is appropriate at six (6) feet.

There is no action taken on this item as it was for discussion purposes only.

**ADJOURNMENT**

Motion by Commissioner Tinsley, seconded by Commissioner Kallen, and unanimously carried to adjourn the meeting of the Planning Commission at 8:10 p.m. to the Regular Meeting on December 21, 2016.

Respectfully Submitted by:

\_\_\_\_\_  
Yvonne Rivera  
Planning Commission Secretary

Approved by:

\_\_\_\_\_  
Chairman Doug Qualls



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## TOWN OF APPLE VALLEY PLANNING COMMISSION

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# Staff Report

<b>AGENDA DATE:</b>	December 21, 2016 <i>(Continued from November 16, 2016)</i>
<b>CASE NUMBER:</b>	Development Code Amendment No. 2016-004
<b>APPLICANT:</b>	Town of Apple Valley
<b>PROPOSAL:</b>	A request to consider an amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code by modifying Chapter 9.25 "Deviation Permits"; Chapter 9.28 "Residential Districts"; Chapter 9.35 "Commercial Districts"; as it pertains to setback reduction procedures within the Ranchos Residential Overlay District.
<b>LOCATION:</b>	Town-wide Ranchos Residential Overlay District
<b>ENVIRONMENTAL DETERMINATION:</b>	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.
<b>PROJECT PLANNER:</b>	Ms. Pam Cupp, Associate Planner
<b>RECOMMENDATION:</b>	Adopt Planning Commission Resolution No. 2016-008.

## **BACKGROUND & DISCUSSION**

There are approximately 1,400 vacant, residential lots remaining within the original Ranchos Tracts (Exhibit 1). Many of these lots may prove to be difficult to develop due to setback constraints. On September 27, 2016, the Town Council initiated a Development Code Amendment to provide setback relief for construction projects located within the Ranchos Residential Overlay Districts (RRO). Currently, there is no flexibility in the setbacks and most encroachments require a variance process.

This item was initially reviewed by the Planning Commission on October 19, 2016. As requested by the Commission, Development Code Amendment 2016-004 was continued to November 16, 2016 for review and discussion by a full quorum. During the November 16<sup>th</sup> public hearing the Commission thoroughly discussed the issues surrounding single family, multi-family and commercial development within the RRO. The Commission's primary concern was that the setbacks established within the residential neighborhoods be maintained.

The final direction to staff was that it would be appropriate to allow commercial and multi-family development to encroach into the RRO determined or recorded front and street side yard setback, not to exceed the minimum setback for the zoning designation, with the Director's review and approval of a Deviation Permit. New construction within the established residential neighborhoods should be subject to the RRO determined, or recorded setbacks. The Commission is in favor of allowing front porch additions to existing homes to encroach into the RRO determined or recorded front or street side yard setback, a maximum of ten (10) feet, not to exceed the minimum setback for the zoning designation, with the Director's review and approval of a Deviation Permit.

Staff is offering for the Commission's consideration the following amended language as identified by strike-through text for deletions and underlined text for additions.

### **Chapter 9.25 Deviation Permits**

#### **9.25.030 Standards** *(Amended Ord. No. 473)*

The Director may grant a Deviation Permit for only the following minor exceptions to the Development Code:

- A.** A maximum twenty (20) percent reduction in lot area, lot dimensions or setbacks for Commercial and Industrial Districts.
- B.** A maximum ten (10) percent reduction for interior side setbacks and a twenty (20) percent reduction for rear setbacks in Residential Districts.
- C.** A maximum twenty (20) percent increase in the height of fences.
- D.** In the Commercial and Industrial Districts, a porte cochere open on three sides may encroach up to fifty (50) percent, but not less than twenty-five (25) feet from the front property line.
- 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.

**F. For an unenclosed addition to a primary residential structure, a maximum ten (10)-foot encroachment into the front yard or street side yard setback as indicated by the Ranchos Residential Overlay District, or as delineated on a Final Map, not to exceed the required setback determined by the zoning district.**

**G. For new construction, or additions to existing multi-family or commercial structures, an encroachment into the front or street side yard setback as indicated by the Ranchos Residential Overlay District, or as delineated on a Final Map, not to exceed the required setback determined by the zoning district.**

## **Chapter 9.26 Residential Districts**

### **9.28.040 Site Development Standards (Amended Ord. 314, 341, 354)**

The Site Development Standards in Table 9.28.040-A are intended to provide standards for the development and use of land within the residential districts. These standards apply in conjunction with the applicable specific use regulations in Chapter 9.29, and the design standards in Chapter 9.31. All submissions to the Town of Apple Valley for a development or other permit, whether for Planning Commission, Town Council, or Plan Check and Building Permit review, may be required to provide public right-of-way or other appropriate dedication(s) and off-site and/or street and other related public improvement(s) consistent with the Circulation Element of the adopted General Plan and/or applicable standards established by the Town Engineer, as determined by the Town of Apple Valley Town Engineer, to mitigate and/or contribute toward mitigation of impacts, to promote the public health, safety and welfare, and as not otherwise restricted by law.

The setbacks specified in Table 9.28.040-A shall be the setback standards, except for the Mountain Vista neighborhood, as defined in this Chapter, and for which setbacks are specified in Table 9.28.040-C, or unless a different setback is indicated by a Ranchos Residential Overlay District as designated in Chapter 9.63 of this Code or is required as delineated on all Final Maps, Parcel Maps and Records of Survey Maps recorded in San Bernardino County between March 1, 1948, and January 1, 1987, or on Composite Development Plans on file in Town offices; then these setbacks shall be the street and yard setback distances required on the property within said Final Maps, Parcel Maps, Records of Survey or Composite Development Plan. Notwithstanding any other provision of this Code, any request to modify or deviate from a building setback line designated on a recorded map or final map shall be made in accordance with the provisions of Chapter 9.24 *Variances* **or Chapter 9.25 Deviation Permits**, of this Code.

## **Chapter 9.35 Commercial and Office Districts**

### **9.35.040 Site Development Standards (Amended Ord. 289, 291, 313, 473)**

The site development standards in Table 9.35.040-A are intended to provide standards for the development and use of land within the Commercial and Office districts. (summarized in Table 9.35.040-B and Figure 9.35.040-C). These standards apply in conjunction with the applicable specific use regulations in Chapter 9.36, the design standards in Chapter 9.37, and the performance standards in Chapter 9.70 of this Development Code. All submissions to the Town of Apple Valley for a development or other permit, whether for Planning Commission, Town Council, or Plan Check and Building Permit review, may be required to provide public right-of-way

or other appropriate dedication(s) and off-site and/or street and other related public improvement(s) consistent with the Circulation Element of the adopted General Plan and/or applicable standards established by the Town Engineer, as determined by the Town of Apple Valley Town Engineer, to mitigate and/or contribute toward mitigation of impacts, to promote the public health, safety and welfare, and as not otherwise restricted by law.

The setbacks specified in Table 9.35.040-A shall be the setback Standards unless approved otherwise by a different setback is required, as delineated on all Final Maps, Parcel Maps and Records of Survey Maps recorded in San Bernardino County between March 1, 1948, and January 1, 1987, or on Composite Development Plans on file in Town offices.; then these setbacks shall be the street and yard setback distances required on the property within said Final Map, Parcel Map, Records of Survey or Composite Development Plan. Notwithstanding any other provision of this Development Code, any request to modify or deviate from a building setback line designated on a recorded map or final map shall be made in accordance with the provisions of Chapter 9.24, *VariANCES* **or Chapter 9.25 Deviation Permits**, of this Code.

## **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, they may be adopted and forwarded to the Council for its consideration of the Development Code Amendment. If the Commission 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 into the information forwarded to the Council for consideration.

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

Comment: The General Plan is the blueprint for the community's future growth. Specific Goals and Objectives are provided within each of the adopted General Plan's State-mandated Elements. Many of these stated Goals and Objectives address the community's ability to promote and strengthen single family and commercial development. Providing some flexibility in the development standards dictated by the Residential Ranchos Overlay District will encourage additional development while providing quality site planning and design that enhances the aesthetics and economy of the Town.

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. 2016-004 will modify the Town's provisions relative to the ability to administratively modify the required front yard and street side yard setbacks on lots within the Ranchos Residential Overlay District through the implementation of a Deviation Permit. Findings to approve the Deviation Permit require that the proposed deviation will not be materially detrimental to public health, safety and welfare or injurious to the property or improvements in the vicinity and land use district in which the property is located.



**NOTICING**

Development Code Amendment No. 2016-004 was advertised as a public hearing in the Apple Valley News newspaper on October 7, 2016.

**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. 2016-008 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:**

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Pam Cupp  
Associate Planner

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Carol Miller  
Principal Planner

Attachment:  
Draft Planning Commission Resolution No. 2016-008

**PLANNING COMMISSION RESOLUTION NO. 2016-008**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL ADOPT DEVELOPMENT CODE AMENDMENT NO. 2016-004 AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY MODIFYING CHAPTER 9.25 "DEVIATION PERMITS"; CHAPTER 9.28 “RESIDENTIAL DISTRICT”; AND, CHAPTER 9.35 “COMMERCIAL DISTRICTS” AS IT PERTAINS TO SETBACK REDUCTIONS THROUGH THE APPROVAL OF A DEVIATION PERMIT WITHIN THE RANCHOS RESIDENTIAL OVERLAY DISTRICT.**

**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 are proposed to Title 9 “Development Code” of the Town of Apple Valley Municipal Code by comprehensively amending Chapter 9.25 "Deviation Permits"; Chapter 9.28 “Residential Districts”; Chapter 9.35 "Commercial Districts"; Chapter 9.63 Ranchos Residential Overlay District”; and,

**WHEREAS**, on October 7, 2016, Development Code Amendment No. 2016-004 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

**WHEREAS**, 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; and

**WHEREAS**, on October 19, 2016 the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised the public hearing on Development Code Amendment No. 2016-004, receiving testimony from the public; and

**WHEREAS**, Development Code Amendment No. 2016-004 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. 2016-004 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

**Section 2.** 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.

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

"F. For an unenclosed addition to a primary residential structure, a maximum ten (10)-foot encroachment into the front yard or street side yard setback as indicated by the Ranchos Residential Overlay District, or as delineated on a Final Map, not to exceed the required setback determined by the zoning district.

G. For new construction, or additions to existing multi-family or commercial structures, an encroachment into the front or street side yard setback as indicated by the Ranchos Residential Overlay District, or as delineated on a Final Map, not to exceed the required setback determined by the zoning district."

**Section 4.** Amend the second paragraph of Section 9.28.040 "Site Development Standards" of Chapter 9.28 "Residential Districts" as follows:

"The setbacks specified in Table 9.28.040-A shall be the setback standards, except for the Mountain Vista neighborhood, as defined in this Chapter, and for which setbacks are specified in Table 9.28.040-C, or unless a different setback is indicated by a Ranchos Residential Overlay District as designated in Chapter 9.63 of this Code or is required as delineated on all Final Maps, Parcel Maps and Records of Survey Maps recorded in San Bernardino County between March 1, 1948, and January 1, 1987, or on Composite Development Plans on file in Town offices; then these setbacks shall be the street and yard setback distances required on the property within said Final Maps, Parcel Maps, Records of Survey or Composite Development Plan. Notwithstanding any other provision of this Code, any request to modify or deviate from a building setback line designated on a recorded map or final map shall be made in accordance with the provisions of Chapter 9.24 *Variances* or Chapter 9.25 *Deviation Permits*, of this Code."

**Section 5.** Amend the second paragraph of Section 9.35.040 "Site Development Standards" of Chapter 9.35 "Commercial and Office Districts" as follows:

"The setbacks specified in Table 9.35.040-A shall be the setback Standards unless approved otherwise by a different setback is required, as delineated on all Final Maps, Parcel Maps and Records of Survey Maps recorded in San Bernardino County between March 1, 1948, and January 1, 1987, or on Composite Development Plans on file in Town offices.; then these setbacks shall be the street and yard setback distances required on the property within said Final Map, Parcel Map, Records of Survey or Composite Development Plan. Notwithstanding any other provision of this Development Code, any request to modify or deviate from a building setback line designated on a recorded map or final map shall be made in accordance with the provisions of Chapter 9.24, *Variances* or Chapter 9.25 *Deviation Permits*, of this Code."

Approved and Adopted by the Planning Commission of the Town of Apple Valley this 21st day of December, 2016.

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Chairman Doug Qualls

ATTEST:

I, Yvonne Rivera, 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 21st day of December, 2016, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Ms. Yvonne Rivera, Planning Commission Secretary