



TOWN OF APPLE VALLEY

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council **Date:** January 24, 2017

From: Pam Cupp, Associate Planner **Item No:** 7
Planning Department

Subject: A REQUEST TO CONSIDER AN AMENDMENT TO TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE BY AMENDING CHAPTER 9.25 “DEVIATION PERMITS”, CHAPTER 9.28 “RESIDENTIAL DISTRICTS” AND CHAPTER 9.35 “COMMERCIAL DISTRICTS” AS IT PERTAINS TO SETBACK REDUCTION PROCEDURES WITHIN THE RANCHOS RESIDENTIAL OVERLAY DISTRICT

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

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 because 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. 491 in its entirety and ready by title only.
5. **Introduce** Ordinance No.491, an amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code modifying Chapter 9.25 "Deviation Permits" Chapter 9.28 "Residential Districts" and Chapter 9.35 "Commercial Districts" as it pertains to setback reduction procedures within the Ranchos Residential Overlay District.
6. Direct staff to file a Notice of Exemption.

SUMMARY:

On September 27, 2016, the Town Council initiated a Development Code Amendment to provide setback relief for construction projects located within the Apple Valley Ranchos Tracts. Development Code Chapter 9.63, "Ranchos Residential Overlay District" (RRO) dictates specific setbacks for the Apple Valley Ranchos Tracts, which have been given consideration as the Town's original subdivisions. The setbacks identified on the matrix are often much more restrictive than the site development standards that are based upon zoning designations.

On December 21, 2016 the Planning Commission adopted Planning Commission Resolution No. 2016-008 recommending an amendment to the Development Code as it pertains to this issue. The resolution recommends a Code modification that will provide developers the ability to seek setback relief through the Deviation Permit process. The Commission further recommends that encroachments within single-family zoning districts be limited to unenclosed additions to existing houses with a maximum encroachment of ten (10) feet.

ANALYSIS:

Roughly fifty-eight (58) percent of all residential lots are within the Ranchos Residential Overlay District (RRO). Residential properties within the RRO have setbacks ranging from thirty-five (35) feet to seventy-five (75) feet. The RRO also includes commercially zones properties. The RRO determined setbacks for the commercial properties ranges from twenty-five (25) to seventy-five (75) feet. Of the roughly 366 commercially zoned RRO lots, approximately 190 remain vacant.

Currently, developers have the ability to apply for setback relief through a Variance. The Variance process may provide setback relief only if specific Findings can be made. One of the required Findings requires a hardship that is based upon lot size, shape or topography. Since most of the lots within the Ranchos Tracts are relatively flat with rectangular lot configurations, positive Variance Findings can be difficult to make. Additionally, the Variance process is very costly and requires a Planning Commission public hearing. A faster and less costly option would be the Deviation Permit process.

It is recommended that developers with any project within the RRO be given the option to apply for a setback reduction through a Deviation Permit process if necessary. A Deviation Permit would not allow any encroachment beyond the setback determined by the zoning designation. The Deviation process requires mailed notification to surrounding property owners and invites comments regarding the proposal. Additionally, it affords staff the ability to review each request individually to determine whether or not the granting of a Deviation would be appropriate based upon the following required Finding:

“The Director shall find that the proposed deviation will not be materially detrimental to the public health, safety or welfare, or injurious to the property or improvements in the vicinity and land use district in which the property is located.”

Development Code Amendment 2016-004 was initially reviewed by the Planning Commission on October 19, 2016. It was the consensus of the Commission to continue the public hearing to November 16, 2016 for review and discussion by a full quorum. During the November 16 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 established setbacks within the residential neighborhoods should be adhered to.

The Commission’s final recommendation is 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.

Although staff’s position to allow all developers with projects within the RRO the opportunity to apply for setback relief through the Deviation process, it is the Commission’s recommendation that single family residential encroachments be limited to unenclosed additions to existing homes. These additions may encroach a maximum of ten (10) feet into the RRO determined or recorded front or 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.

The Planning Commission recommends the following amended language as identified by bolded underlined text for additions.

Chapter 9.25 Deviation Permits
9.25.030 Standards

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

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

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:

Prior to the approval of any Amendment to the Development Code, the Council, based upon the advice of the Planning Commission, must make specific “Findings” as listed within the Code. Code Section 9.06.060 “Required Findings” of Chapter 9.06 Amendments to Zoning Provisions” specifies that two (2) Findings must be made in a positive manner to approve an Amendment. These Findings, along with a comment to address each, are presented below.

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

Comment: The General Plan provides the basic framework 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 January 13, 2017.

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.

FISCAL IMPACT:

Not Applicable.

ATTACHMENTS:

1. Draft Ordinance No. 491
2. Planning Commission Resolution No. 2016-008
3. Planning Commission Staff Reports and Minute Excerpts for October 19, November 16 and December 21, 2016

ORDINANCE NO. 491

AN ORDINANCE OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY MODIFYING CHAPTER 9.25 "DEVIATION PERMITS", CHAPTER 9.28 "RESIDENTIAL DISTRICTS", 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 amending Chapter 9.25 "Deviation Permits", Chapter 9.28 "Residential Districts", 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; and

WHEREAS, on December 21, 2016, the Planning Commission of the Town of Apple Valley conducted a duly noticed public hearing on Development Code Amendment No. 2016-004, receiving testimony from the public and adopting Planning Commission Resolution No. 2016-008 forwarding a recommendation to the Council; and

WHEREAS, Development Code Amendment No. 2016-004 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; 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 January 24, 2017, the Town Council of the Town of Apple Valley conducted a duly noticed and advertised public hearings on Development Code Amendment No. 2016-004, 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. 2016-004 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. 2016- 004 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 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.”

Section 6. 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 7. Effective Date. This Ordinance shall become effective thirty (30) days after the date of its adoption.

Section 8. 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 to by the Town Clerk this _____ day of ____, 2017.

Scott Nassif, Mayor

ATTEST:

La Vonda M. Pearson, Town Clerk

APPROVED AS TO FORM:

John Brown, Town Attorney

APPROVED AS TO CONTENT:

Frank Robinson, Town Manager

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.

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:

Ms. Yvonne Rivera, Planning Commission Secretary



TOWN OF APPLE VALLEY PLANNING COMMISSION

Get a Slice of the Apple.

Staff Report

AGENDA DATE:	October 19, 2016
CASE NUMBER:	Development Code Amendment No. 2016-004
APPLICANT:	Town of Apple Valley
PROPOSAL:	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"; and Chapter 9.63 "Ranchos Residential Overlay District" as it pertains to setback reduction procedures within the Ranchos Residential Overlay District.
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.
PROJECT PLANNER:	Ms. Pam Cupp, Associate Planner
RECOMMENDATION:	Adopt Planning Commission Resolution No. 2016-008.

BACKGROUND & DISCUSSION

The Ranchos Tracts are the original neighborhoods of Apple Valley that were subdivided prior to incorporation. In the early 1990's the setbacks for these neighborhoods, and many others, were identified on the Zoning Map within "Side Yard Setback Overlay Districts". In 1998 the Side Yard Setback Overlay District was replaced with the "Ranchos Residential Overlay Matrix", which establishes various building setbacks for only those original Ranchos Tracts. The setbacks identified within the matrix are consistent with the Covenants, Conditions and Restrictions (CC&Rs) of these original subdivisions and consistent with the setbacks as recorded on the tract maps.

It should be noted that many of the tracts identified within the eliminated Side Yard Setback Overlay Districts were not included within the Ranchos Residential Overlay Matrix. Staff maintains a list of these tracts previously identified within the Side Yard Setback Overlay District and continues to honor these setbacks for the tracts specified. The exception is when the previously identified setback overlay is greater than what is permitted by Code, the setback determined by Code prevails.

There are approximately 1,400 vacant, residential lots remaining within the original Ranchos Tracts. Many 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. Currently, there is no flexibility in the setbacks and most encroachments require a variance process.

Development constraints are not limited to new construction. Much of the development within these tracts consist of older homes that were built at the minimum front yard setback line. Front yard setbacks within the Ranchos Tracts range from thirty-five (35) feet to seventy-five (75) feet in some areas. This precludes the homeowner from many types of front elevation enhancement that may include small additions, front porches or other architectural amenities.

Today's Development Code site development standards allow front yard setbacks within residential zones from thirty (30) feet up to fifty (50) feet based upon zoning designation. Allowing for flexibility in development standards for residential development in the Ranchos Tracts will allow property owners the same opportunities for improvements already enjoyed by other property owners outside of the Ranchos Tracts. A modification to the front yard and street side yard setbacks through a Deviation Permit process could provide the flexibility needed to assist homeowners to improve their homes value while also enriching the character and appearance of the neighborhood. Deviation Permits are reviewed administratively and approved by the Director. Prior to a formal decision, Deviation Permits require notification of the pending land use decision be mailed to the surrounding property owners in accordance with the Town's noticing requirements.

New construction of single-family infill would be eligible to apply for a Deviation Permit, and must comply with the single-family infill plotting and design standards, which include a requirement for the minimum front yard setback to be equal to the average of the two (2) immediately adjacent residences, or equal to the average setback of all residences

on both sides of the street within 200 feet of the new development. Additions or alteration to existing structures would be limited to 100 square feet within the Ranchos Residential Overlay designated front yard setback. At no time would a Deviation Permit allow an encroachment beyond the minimum setback required for the zoning district.

The Ranchos Residential Overlay District includes numerous lots that are zoned for commercial development. Approximately 190 of these properties are vacant, which may be due to development constraints. Many of these properties have recorded setbacks of up to seventy (70) feet, which is much greater than what is permitted with today's development standards. Allowing a modification to the front and street side yard setbacks through a Deviation Permit process could provide the flexibility needed to promote commercial growth within these areas. At no time would a Deviation Permit allow an encroachment beyond the minimum setback required for the zoning district.

In addition to the recommended modifications, staff is requesting a clean-up item to remove the prohibition of parking within the required front yard or street side yard setback within Commercial and Office Districts. This language is in direct conflict with Code Section 9.72 "Off-street Parking and Loading Regulations".

ANALYSIS

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***

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 development within the Ranchos Residential Overlay District, a reduction to the front yard setback as identified within Chapter 9.63 "Ranchos Residential Overlay District", not to exceed the minimum setback for the zoning designation.

CHAPTER 9.28 RESIDENTIAL DISTRICTS

SECTION 9.28.040 (B) EXCEPTIONS TO REQUIRED STRUCTURE SETBACKS

7. FOR PROPERTIES LOCATED WITHIN THE RANCHOS RESIDENTIAL OVERLAY DISTRICT,

EXCEPTIONS TO THE REQUIRED FRONT YARD AND STREET SIDE YARD SETBACKS FOR NEW CONSTRUCTIONS OF SINGLE FAMILY RESIDENCES, AND ADDITIONS TO EXISTING RESIDENCES UP TO 100 SQUARE FEET, MAY BE REVIEWED UNDER SECTION 9.25 "DEVIATION PERMIT" OF THIS CODE, SUBJECT TO SECTION 9.31, "RESIDENTIAL DESIGN STANDARDS" OF THIS CODE.

Chapter 9.35 Commercial and Office Districts

9.35.050 Projections into Yards

- C. Use of Required Yards. Required yards may be used for landscaping, walkways, and driveways from the street to the interior of the lot. Required yards may be used for parking when *all* other requirements, such as landscaping, have been satisfied, ~~except that no parking shall be allowed in the minimum required front and street side setbacks,~~ as established in Table 9.35.040-A. Clean-up items only.
- D. For properties located within the Ranchos Residential Overlay District, exceptions to the required front yard and street side yard setbacks may be reviewed under Section 9.25 "Deviation Permit" of this Code, and subject to the review and approval of a Development Permit.

Chapter 9.63 Ranchos Residential Overlay District

9.63.030 Exceptions to Setbacks

- A. For Corner lots or odd-shaped lots with a buildable area of less than 45 (forty-five) percent, the setbacks may be reduced to achieve 45 (forty-five) percent buildable area. The buildable area is the total area of the lot minus the area required for setbacks.
- B. Exceptions to the required front yard and street side yard setbacks may be reviewed under Section 9.25, Deviation Permit 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.

**MINUTES
EXCERPT
TOWN OF APPLE VALLEY
PLANNING COMMISSION
Regular Meeting**

WEDNESDAY, OCTOBER 19, 2016

CALL TO ORDER

Chairman Qualls called to order the Regular Meeting of the Planning Commission of the Town of Apple Valley for October 19, 2016 at 6:00 p.m.

ROLL CALL

Planning Commission

Roll call was taken with the following members present: Commissioner Bruce Kallen, Vice-Chairman Mark Shoup and Chairman Doug Qualls. Absent: Commissioner Jason Lamoreaux, Commissioner B.R. "Bob" Tinsley.

STAFF PRESENT

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

PUBLIC HEARING ITEMS

2. **Development Code Amendment No. 2016-004.** This is 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"; 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

Chairman Qualls opened the public hearing at 6:07 p.m.

Ms. Pam Cupp, Associate Planner, presented the staff report as filed by the Planning Division. She noted there is a need to make a correction on Pages 3-4 and 3-7, Section 4 of the proposed resolution, to remove the restrictions of 100 square feet for additions.

Lengthy discussion ensued among the Planning Commissioners regarding setback procedures and the zoning designations within the Ranchos Residential Overlay District.

Ms. Cupp informed the Planning Commission that the Town Council initiated a Development Code Amendment to provide setback relief for construction projects located within the Ranchos Residential Overlay Districts. She also noted that currently, there is no flexibility in the setbacks and most encroachments require a variance process.

Vice-Chairman Shoup expressed concern regarding moving forward with the item without the input of all Planning Commissioners.

Ms. Carol Miller, Principal Planner, read into the record Section 9.31.020 as it relates to single-family planning design standards:

- B. Infill setbacks in existing neighborhoods within new single-family development must be equal to the average setback of all residences on both sides of the public right-of-way within 200-feet of the property lines of the new development, or equal to the average of the two immediate adjacent residences.

Lengthy discussion ensued regarding new construction that may not meet the setbacks according to the development code standards.

The Planning Commission requested that staff come back with illustrations that demonstrate the impact that may be associated with encroachments and to provide a comparison of the Ranchos Residential Overlay setbacks to the setback as determined by zoning designation.

Thomas Rice, Town Attorney noted there is an appeal procedure in the Development Code; a Notice Action Deviation Permit to notice the members of the public around the property subject to the change. He stated those members of the public would know staff's action and would then be able to appeal that to the Planning Commission.

Chairman Qualls closed the public hearing at 6:44 p.m.

PUBLIC COMMENT:

None.

MOTION

Motion by Commissioner Kallen, seconded by Vice-Chairman Shoup, that the Planning Commission move to continue this item to the next Planning Commission meeting on November 16, 2016.

The Motion carried unanimously by voice vote.



Get a Slice of the Apple.

TOWN OF APPLE VALLEY PLANNING COMMISSION

Staff Report

AGENDA DATE:	November 16, 2016 (<i>Continued from October 19, 2016</i>)
CASE NUMBER:	Development Code Amendment No. 2016-004
APPLICANT:	Town of Apple Valley
PROPOSAL:	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"; and Chapter 9.63 "Ranchos Residential Overlay District" as it pertains to setback reduction procedures within the Ranchos Residential Overlay District.
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.
PROJECT PLANNER:	Ms. Pam Cupp, Associate Planner
RECOMMENDATION:	Adopt Planning Commission Resolution No. 2016-008.

BACKGROUND & DISCUSSION

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. Additionally, the Commission requested graphics to assist with its deliberations.

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.

Development constraints are not limited to new construction. Much of the development within these tracts consist of older homes that were built at the minimum front yard setback line. Front yard setbacks within the Ranchos Tracts range from thirty-five (35) feet to seventy-five (75) feet in some areas. This precludes the homeowner from many types of front elevation enhancement that may include small additions, front porches or other architectural amenities.

Today's Development Code site development standards allow front yard setbacks within residential zones from thirty (30) feet up to fifty (50) feet based upon zoning designation. Allowing for flexibility in development standards for residential development in the Ranchos Tracts will allow property owners the same opportunities for improvements already enjoyed by other property owners outside of the Ranchos Tracts. A modification to the front yard and street side yard setbacks through a Deviation Permit process could provide the flexibility needed to assist homeowners to improve their homes value while also enriching the character and appearance of the neighborhood. Deviation Permits are reviewed administratively and approved by the Director. Prior to a formal decision, Deviation Permits require notification of the pending land use decision be mailed to the surrounding property owners in accordance with the Town's noticing requirements.

New construction of single-family infill would be eligible to apply for a Deviation Permit, and must comply with the single-family infill plotting and design standards. These design standards include a requirement for the minimum front yard setback to be equal to the average of the two (2) immediately adjacent residences, or equal to the average setback of all residences on both sides of the street within 200 feet of the new development. Additions or alteration to an existing primary structure could also seek setback relief through the Deviation process. At no time would a Deviation Permit allow an encroachment beyond the minimum setback required for the zoning district.

The Commission expressed concern that allowing additions to encroach to the setback line determined by the zoning designation could be detrimental to the fabric of the Ranchos Tracts. As requested, staff has provided aerial imagery to demonstrate potential encroachments into the required front yard setbacks. Exhibit 2 illustrates three (3) vacant parcels within the Single-family Residential (R-SF) zone that have an RRO setback of fifty (50) feet. Exhibit 3 illustrates three (3) vacant parcels within the Estate Residential (R-E) zone that have a RRO setback of seventy-five (75) feet. The example

shown in Exhibit 4 demonstrates potential encroachments within the Multi-family residential zones that are also subject to the RRO front yard setback of fifty (50) feet.

The RRO District includes numerous lots that are zoned for commercial development. Approximately 190 of these properties are vacant, which may be due to development constraints. The Development Code contains existing provisions for a commercial lot to encroach up to twenty (20) percent into any setback with a Deviation Permit. Several of the commercially zoned, Ranchos Residential Overlay properties have recorded front yard setbacks of up to eighty (80) feet, which is much greater than what is permitted with today's development standards. Exhibits 5, 6, and 7 illustrate numerous vacant, commercial parcels with some recorded setbacks that are more than double those determined by the zoning designation. Allowing a modification to the front and street side yard setbacks through a Deviation Permit process could provide the flexibility needed to promote commercial growth within these areas. At no time would a Deviation Permit, based upon an RRO setback, be eligible for an encroachment beyond the minimum setback required for the zoning district.

ANALYSIS

In addition to the recommended modifications, staff is requesting a clean-up item to remove the prohibition of parking within the required front yard or street side yard setback within Commercial and Office Districts. This language is in direct conflict with Code Section 9.72 "Off-street Parking and Loading Regulations".

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***

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 development within the Ranchos Residential Overlay District, a reduction to the front yard setback as identified within Chapter 9.63 "Ranchos Residential Overlay District", not to exceed the minimum setback for the zoning designation.

CHAPTER 9.28 RESIDENTIAL DISTRICTS

SECTION 9.28.040 (B) EXCEPTIONS TO REQUIRED STRUCTURE SETBACKS

7. FOR PROPERTIES LOCATED WITHIN THE RANCHOS RESIDENTIAL OVERLAY DISTRICT, EXCEPTIONS TO THE REQUIRED FRONT YARD AND STREET SIDE YARD SETBACKS FOR NEW CONSTRUCTION OF SINGLE-FAMILY RESIDENCES AND ALTERATIONS OR ADDITIONS TO THE PRIMARY STRUCTURE, MAY BE REVIEWED UNDER SECTION 9.25 "DEVIATION PERMIT" OF THIS CODE, SUBJECT TO SECTION 9.31, "RESIDENTIAL DESIGN STANDARDS" OF THIS CODE.

Chapter 9.35 Commercial and Office Districts

9.35.050 Projections into Yards

- C. Use of Required Yards. Required yards may be used for landscaping, walkways, and driveways from the street to the interior of the lot. Required yards may be used for parking when *all* other requirements, such as landscaping, have been satisfied, ~~except that no parking shall be allowed in the minimum required front and street side setbacks,~~ as established in Table 9.35.040-A. Clean-up item only.
- D. For properties located within the Ranchos Residential Overlay District, exceptions to the required front yard and street side yard setbacks may be reviewed under Section 9.25 "Deviation Permit" of this Code, and subject to the review and approval of a Development Permit.

Chapter 9.63 Ranchos Residential Overlay District

9.63.030 Exceptions to Setbacks

- A. For Corner lots or odd-shaped lots with a buildable area of less than 45 (forty-five) percent, the setbacks may be reduced to achieve 45 (forty-five) percent buildable area. The buildable area is the total area of the lot minus the area required for setbacks.
- B. Exceptions to the required front yard and street side yard setbacks may be reviewed under Section 9.25, Deviation Permit 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.

**MINUTES
EXCERPT
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.

PUBLIC HEARING ITEMS

- 3. 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.



Get a Slice of the Apple.

TOWN OF APPLE VALLEY PLANNING COMMISSION

Staff Report

AGENDA DATE:	December 21, 2016 (<i>Continued from November 16, 2016</i>)
CASE NUMBER:	Development Code Amendment No. 2016-004
APPLICANT:	Town of Apple Valley
PROPOSAL:	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.
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.
PROJECT PLANNER:	Ms. Pam Cupp, Associate Planner
RECOMMENDATION:	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 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.

**DRAFT MINUTES
EXCERPT
TOWN OF APPLE VALLEY
PLANNING COMMISSION**

**Regular Meeting
WEDNESDAY, DECEMBER 21, 2016**

CALL TO ORDER

Chairman Qualls called to order the Regular Meeting of the Planning Commission of the Town of Apple Valley for December 21, 2016 at 6:00 p.m.

ROLL CALL

Planning Commission

Roll call was taken with the following members present: Commissioner Bruce Kallen, Vice-Chairman Mark Shoup and Chairman Doug Qualls. Absent: Commissioner Jason Lamoreaux and Commissioner B.R. "Bob" Tinsley.

STAFF PRESENT

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

Commissioner Lamoreaux arrived to the Planning Commission Meeting at 6:02 p.m.

PUBLIC HEARING ITEMS

4. **Development Code Amendment No. 2016-004.** 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.

Applicant: Town of Apple Valley

Location: Town-wide Ranchos Residential Overlay District Chairman

Qualls opened the public hearing at 6:05 p.m.

Ms. Pam Cupp, Associate Planner, presented the staff report as filed by the Planning Division.

With there being no one in the audience wishing to speak under Public Comments, Chairman Qualls closed the Public Hearing at 6:06 p.m.

MOTION

Motion by Vice-Chairman Shoup, seconded by Commissioner Lamoreaux, that the Planning 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.

ROLL CALL VOTE

Ayes: Commissioner Kallen Commissioner Lamoreaux Vice-Chairman Shoup
Chairman Qualls
Noes: None
Abstain: None
Absent: Commissioner Tinsley The motion carried by a 4-0-0-1 vote.