

**TOWN OF APPLE VALLEY, CALIFORNIA  
AGENDA MATTER**

**Subject Item:**

**GENERAL PLAN AMENDMENT NO. 2004-002, ZONE CHANGE 2004-002, SPECIFIC PLAN NO. 2004-002 AND TENTATIVE TRACT MAP NO. 16922. THE REQUEST IS FOR A SPECIFIC PLAN (“DEEP CREEK ESTATES”). THE PROPOSAL CHANGES APPROXIMATELY EIGHTY (80) GROSS ACRES WITH A CURRENT RESIDENTIAL LOW DENSITY (R-LD), ONE (1) DWELLING UNIT PER 2.5 TO 5.0 GROSS ACRE LAND USE DESIGNATION TO SPECIFIC PLAN (S-P) FOR THE SUBJECT AREA AND A REQUEST TO CONSIDER CHANGING THE ZONING DESIGNATION FROM RESIDENTIAL AGRICULTURE (R-A), ONE (1) DWELLING UNIT PER 2.5 TO 5.0 GROSS ACRE TO SPECIFIC PLAN (S-P) FOR THE SUBJECT AREA. THE APPLICANT HAS REQUESTED TO SUBDIVIDE THE TOTAL EIGHTY (80) GROSS ACRE SITE, UNDER TENTATIVE TRACT MAP NO. 16922, INTO EIGHTY-SEVEN (87) SINGLE FAMILY LOTS. ALL LOTS ARE SINGLE-FAMILY RESIDENTIAL AND WILL RANGE FROM 18,000 SQUARE FEET TO 57,748 SQUARE FEET IN SIZE. THE APPROXIMATELY EIGHTY (80)-ACRE SITE IS GENERALLY LOCATED ON THE NORTHWEST CORNER OF TUSSING RANCH AND DEEP CREEK ROADS; APNS 0434-201-14 and -48.**

**Recommended Action:**

**Move to open public hearing and take testimony.  
Close the public hearing. Then:**

1. **Determine** that, based on the Negative Comments to the required Findings for approval, the project is denied. The proposed General Plan Amendment and Zone Change are inconsistent with the Goals and Policies of the General Plan and has the potential to negatively impact the adjacent low density residential neighborhoods.
2. **Find** that the facts presented in the staff report, including the attached Planning Commission staff reports for October 17, 2007 and January 16<sup>th</sup>, May 21<sup>st</sup> and June 4, 2008, do not support the required Findings for approval and adopt the negative comments in the staff report relating to the required Findings for approval.
3. **Adopt** Town Council Resolution No. 2008- \_\_\_\_\_ to:
  - a. **Deny** General Plan Amendment No. 2004-002, a proposal to change the existing land use designation of Residential Low Density (R-LD) to Specific Plan (S-P).
  - b. **Deny** Zone Change No. 2004-002, a proposal to change the existing zoning designation of Residential Agriculture (R-A) to Specific Plan (S-P).
  - c. **Deny** Specific Plan No. 2004-002, a proposal to develop single-family residential lots on the subject site.
  - d. **Deny** Tentative Tract Map No. 16922, a request to subdivide the eighty (80)-acre site into eighty-seven (87) single-family residential lots for future development on the subject site.

**Proposed by:**                     Planning Division                    

**Item Number** \_\_\_\_\_

**Town Manager Approval:** \_\_\_\_\_

**Budget Item**  Yes  No  N/A

**Summary Statement:**

The Planning Commission conducted four (4) public hearings (October 17, 2007, January 16<sup>th</sup>, May 21<sup>st</sup> and June 4, 2008) to review and take testimony for the above referenced project. Following a recommendation of denial by the Planning Commission at its January 16, 2008 meeting, the project was forwarded to the Town Council at its meeting held on April 22, 2008. After review of the information within the staff report, public input and discussion among the Council, the Council took action remanding the Specific Plan back to the Planning Commission for its review. The Council's action included required modifications to the Specific Plan. The applicant submitted the modified Specific Plan to the Planning Division on April 29, 2008. The Council's direction to the Planning Commission was to review the eleven (11) Specific Plan modifications to verify that they had been completed and, if completed, to make a favorable decision on GPA/ZC/SP 2004-002 and Tentative Tract Map No. 16922 with the recommended Conditions of Approval.

The applicant prepared the Specific Plan with the recommended modifications as directed by the Town Council. Staff evaluated the modifications to the Specific Plan to verify completion and forwarded a recommendation of approval to the Planning Commission at the May 21, 2008 meeting.

At the May 21, 2008 Planning Commission meeting, upon receiving staff's analysis, testimony from the applicant, the public and subsequent Commission discussion, the Planning Commission considered a motion to approve the project. The motion failed on a 2 to 2 vote, with one (1) Commission member recused from the dais as a result of a stated conflict of interest. Pursuant to State law, a majority vote of the Commission (3 votes) is required for approval of a General Plan Amendment (GPA), Zone Change (ZC) or Specific Plan (SP) and the 2-2 vote is, therefore, technically determined as a denial of the project. The Planning Commission made a motion to continue the project to the June 4, 2008 Planning Commission meeting to allow staff to prepare findings for denial.

At the June 4, 2008 Planning Commission meeting, a motion was made by Chairman Hernandez to approve the negative findings for denial of GPA/AZ/SP 2004-002 and TTM No. 16922. The motion failed with a 2-2 vote, however the project is technically a denial and is forwarded to the Town Council for their consideration.

At the May 21, 2008 Planning Commission meeting, Commissioner Putko stated that he was not in favor of the project due to the inadequate park size and lack of amenities, minimal lot sizes and that the project would not maintain zoning integrity for the general area. Chairman Hernandez stated that the project should have one (1) acre minimum lot sizes for all lots within the subdivision; the park size and the amenities, as noted in the required SP modification list, were insufficient for the ability of the site to be developed with density greater than the underlying zoning under a Specific Plan and, in this case, build at a density of two (2) units to the acre, rather than the underlying zoning of one (1) unit per 2.5-acres.

Based upon direction to staff by the Planning Commission at the May 21, 2008 hearing, findings for denial were provided within the June 4<sup>th</sup> Planning Commission's staff report, reflecting comments made by Chairman Hernandez and Commissioner Putko. At the May 21<sup>st</sup> Planning Commission meeting, further analysis was provided within the staff report (attached), which included the details of the changes and a brief summary of the Specific Plan and also includes Findings for approval. Due to the large amount of information within each staff report and the numerous attachments, only the May 21<sup>st</sup> and June 4, 2008 Planning Commission Staff Reports are attached which also have previous staff reports attached for reference. The Staff

Report from the April 22, 2008 Town Council meeting is also attached for reference to the Council. Provided below are the recommended modifications to the Specific Plan, and noted adherence to each item, are shown as follows:

1. Combine lots to create one (1) larger park of two (2)-acre minimum size with better and more functional amenities for all the Deep Creek residents. *(Note: At the 4/22/08 Town Council meeting, the Town Council determined that one (1) large park of approximately two (2) acres in size shall be developed and is shown as Lot "A" on the TTM).*
2. Reduce the impact of the sound attenuation wall (Tussing Ranch Road) with enhanced wall design and materials. Including texture, detailing and changes in wall heights and extensive landscaping *(Exhibit 4-5a shows the conceptual Wall & Fence Plan, for the walls along Tussing Ranch and Deep Creek Roads).*
3. Landscaped areas:
  - a. Parkway street trees shall be a minimum of 24-inch box container size.
  - b. Street trees outside perimeter walls shall be a minimum of 24-inch boxed sized trees. Additional perimeter wall trees shall be a combination of 24-inch box and 15-gallon sizes trees.
  - c. Entrance trees shall be a combination of 24-inch, 36-inch and 48-inch box container size.
  - d. All landscaped areas shall be planted with sufficient 5-gallon shrubs and 1-gallon and smaller ground covers to create landscaping in accordance with the Town's Landscape Ordinance. Shrubs and ground covers shall be emphasized outside perimeter walls and at project entry points.

Drought-tolerant landscaping, per the Town's Landscape Ordinance, shall be emphasized outside the perimeter walls at project entry points along the meandering trail/pedestrian paths and other highly visible landscaped common areas. All landscape area plant type, size and spacing shall be determined by the Director of Economic and Community Development *(generally depicted as Exhibits 4-4, 5-2A and -2B and described in Section 4.4).*

4. All sidewalks shall be six (6) feet wide, except Tussing Ranch Road, which shall be in conformance with the General Plan Circulation Element *(shown on the TTM and Exhibit 5-2).*
5. The retention basin (Exhibit No. 6-4 northwest portion of Lot "B") will be planted with native plantings in groups of three (3) and five (5) in accordance with the Town's Landscape Ordinance. The slopes and bottom of the basin will be hydroseeded with native grasses and other native ground covers *(Shown in the Specific Plan as a retention basin depicted on Exhibit Nos. 4-7, 4-8, and 6-4 Stormwater Retention Basin Plan).*
6. Require that the Joshua Tree maintenance and monitoring program specify which Joshua Trees will be preserved in the project area in accordance with the site's Joshua preservation survey *(relocation depicted on Exhibit 4-7; language expanded in Sections 4.4.1, 4.5.2 and 7.5.3).*
7. The Homeowner's Association (HOA) shall be created to fund and manage a high level of maintenance, at all times, of the landscaping, structures and other facilities it is responsible for *(depicted in Exhibit 7-2 and further described in Section 7.5.1 in the Specific Plan).*
8. Redesign the Drainage Easement/Recreation Trail Channel to create a more natural look by including greater landscaping with sufficient trees and shrubs to create a fully landscaped channel and use of creative grading and rocks to both create a more natural look and to slow storm water runoff. This will be subject to the final drainage plan, as approved by the Town Engineer *(Exhibit Nos. 4-7 and 4-8).*

9. Redesign the “Open Space Easement – No Structures” area to include the residual property shown on the rear/side of Lot Nos. 24 to 36 (*shown on revised TTM and Exhibit 4-3*).
10. On Exhibit No. 7-1, the Phasing Plan should be numbered with appropriate phase numbers. Staff recommends that on Page 7-6, the paragraph under “Phase – Neighborhood Equestrian Area” should be deleted. The improvements on River Vista Road are required under Planning and Engineering Conditions of Approval with TTM No. 16922 (*Shown on revised Exhibit 7-1*).
11. Revise the development standards to prohibit further division of the perimeter one (1) - acre minimum buffer lots (*added by PC at 10/17/07 meeting and described in Section 4.3 Residential Development Standards*).

**Analysis:**

The Specific Plan, as submitted with the required modifications, was evaluated by staff for conformance with the direction made by the Town Council at their April 22, 2008 meeting. Staff verified completion of the modifications and forwarded a recommendation of approval to the Planning Commission at the May 21, 2008 meeting. The original two (2) proposed parks and amenities, which were found to be insufficient in size, were increased to one (1) larger park (86,000 square feet), as directed by the Council. The Recreational/Equestrian park area proposes an eating area with two (2) park benches; a 20' by 20' shading device; horseshoe pits; an equestrian show ring and hitching post; parking lot with vehicle and horse trailer parking stalls and landscaping with native desert oriented and drought resistant plants.

The applicant also made additional revisions to the Specific Plan, subsequent to the April 22<sup>nd</sup> Town Council meeting. The Specific Plan shows an increase from three (3) phases to four (4) phases to the project; removal of sewer connection and a proposed septic system for Lot Nos. 1 through 7 and addition of a driveway approach and parking lot to the Park (Lot “A”). The added phase to the original phasing plan and the added amenities to the park site were not considered as a significant change to the overall project. At the May 21<sup>st</sup> meeting, the Commission did not object to the septic system proposed for Lot Nos. 1 through 7, as these lots exceeded one (1) acre in size and conform to the Town’s Sewer Connection Policy.

**Summary:**

GPA/ZC/SP No. 2004-002 and Tentative Tract Map No. 16922 was reviewed by the Commission on October 17, 2007 with staff’s recommendation to approve the project based upon compliance with staff recommended modifications to the Specific Plan. At the October 17, 2007 Planning Commission meeting the Commission directed that the applicant modify the Specific Plan as recommended by staff and the Commission and to increase lot sizes to one (1)-acre minimum. This would require reducing the length of River Vista Road (cul-de-sac) and combining lots on the southeast portion of the site to create one (1) or two (2) larger parks of one (1)-acre minimum lot size with better and functional amenities. The project was continued to allow additional time for the applicant to prepare a revised Specific Plan, based upon staff’s and the Planning Commission’s recommended modifications.

At the January 16, 2008 Commission meeting, the Specific Plan and Tentative Tract Map were presented to the Planning Commission, however, the Specific Plan was not submitted in a timely manner. This resulted with a Specific Plan that was still the original plan presented to the Planning Commission at the October 17<sup>th</sup> meeting without the recommended changes. Based upon the unmodified Specific Plan and Tentative Tract Map, staff recommended denial of GPA/ZNC No. 2004-002, Specific Plan No. 2004-002 and TTM No. 16922. A motion was made by Vice-Chairman Tinsley and seconded by Commissioner Allen, to approve and continue this item to the February 6, 2008 Planning Commission meeting to allow staff time to bring back a

Planning Commission Resolution in favor of the project. The motion failed by 2-2-0-1 and the project was denied. A 2-2 vote results in a denial of the subject applications and the project was forwarded to the Town Council with a recommendation of denial at the April 22, 2008 Town Council meeting.

Following review of the information within the staff report, public input and discussion among the Council, the Council took action remanding the Specific Plan back to the Planning Commission for its review. The Council's action included required modifications to the Specific Plan. The Council's direction to the Planning Commission was to review the eleven (11) Specific Plan modifications to verify that they had been completed and, if completed, to make a favorable decision on GPA/ZC/SP 2004-002 and Tentative Tract Map No. 16922 with the recommended Conditions of Approval.

The applicant prepared the Specific Plan with the recommended modifications as directed by the Town Council. Staff evaluated the modifications to the Specific Plan to verify completion and forwarded a recommendation of approval to the Planning Commission at the May 21, 2008 meeting. Although, at its meeting of May 21, 2008, the Planning Commission voted 2-2 on a motion to approve the project, a majority of three (3) votes is required for approval of a General Plan Amendment, Zone Change or Specific Plan. A 2-2 vote results in a denial of the subject applications. The item was continued to the June 4<sup>th</sup> meeting to allow staff time to prepare negative Findings, based upon the comments made by Chairman Hernandez and Commissioner Putko. At the June 4, 2008 Commission meeting, a motion was made to approve the negative Findings for denial of the project and the Commission voted 2-2. As a result, Planning Commission Resolution No. 2007-028 recommends denial (although not adopted by a required majority [3] of the Commission members), of General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan 2004-002 and Tentative Tract Map No. 16922, and forwarding a recommendation that the Town Council find that the proposed General Plan Amendment, Zone Change, Specific Plan and Tentative Tract Map are inconsistent with the Goals and Policies of the Town of Apple Valley adopted General Plan and cannot support the required positive findings for approval and recommends denial of Specific Plan No. 2004-002 on Assessor Parcel Numbers 0434-201-14 and -48.

**Attachments:**

1. Draft Town Council Resolution No. 2008-\_\_\_\_ for denial
  2. Planning Commission Resolution No. 2007-028 for denial
  3. Recommended Modifications of Specific Plan
  4. TTM No. 16922 Conditions of Approval.
  5. Town Council staff report for April 22, 2008
  6. Planning Commission staff report for May 21<sup>st</sup> and June 4, 2008.
  7. Town Council Minute Excerpt for April 22, 2008
  8. Planning Com/mission Minute Excerpts for May 21 and June 4, 2008.
- Deep Creek Estates Specific Plan change sheets (separate handout)  
Tentative Tract Map No. 16922 (full size map)

TOWN COUNCIL RESOLUTION NO. 2008-\_\_\_\_\_

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, DENYING GENERAL PLAN AMENDMENT NO. 2004-002 TO CHANGE THE GENERAL PLAN LAND USE DESIGNATION FROM RESIDENTIAL LOW DENSITY (R-LD), ONE (1) DWELLING UNIT PER 2.5 TO 5.0 ACRES TO SPECIFIC PLAN (S-P); AND DENIAL OF ZONE CHANGE NO. 2004-002 TO CHANGE THE ZONING DESIGNATION FROM RESIDENTIAL AGRICULTURE (R-A), ONE (1) DWELLING PER 2.5 TO 5.0 ACRE, ZONE DESIGNATION TO SPECIFIC PLAN (S-P) ZONE DESIGNATION; AND DENYING PROPOSED SPECIFIC PLAN, "DEEP CREEK ESTATES" THAT INCLUDES EIGHTY (80) ACRES OF SINGLE-FAMILY RESIDENTIAL AND RESIDENTIAL EQUESTRIAN, ONE (1) DWELLING UNIT PER MINIMUM HALF (1/2)-ACRE LOTS WITH SOME ONE (1) ACRE LOTS; AND FURTHER RECOMMENDS DENIAL OF TENTATIVE TRACT MAP NO. 16922; GENERALLY LOCATED AT THE NORTHWEST CORNER OF TUSSING RANCH ROAD AND DEEP CREEK ROAD; SECTION 7, TOWNSHIP 4 NORTH, RANGE 3 WEST OF SAN BERNARDINO MERIDIAN; APNS 0434-201-14 and -48;

**WHEREAS**, the Town of Apple Valley General Plan was adopted by the Town Council on October 27, 1998; and

**WHEREAS**, Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley was adopted by the Town Council on October 24, 2000; and

**WHEREAS**, Title 9 (Development Code), including Chapter 9.03 *Specific Plans*, has been utilized to adopt one or more Specific Plans by the Town Council on the recommendation of the Planning Commission; and

**WHEREAS**, a Specific Plan ("Deep Creek Estates") has been proposed for two (2) parcels generally located at the northwest corner of Tussing Ranch and Deep Creek Roads, Section 7, Township 4 North, Range 3 West of San Bernardino Meridian (APNs 0434-201-14 and -48); and

**WHEREAS**, on June 6, 2008, proposed General Plan Amendment No. 2004-002, Zone Change No, 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922 were duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

**WHEREAS**, based upon the State Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15270, that a project which is denied by the Town is Exempt from CEQA, and

**WHEREAS**, on June 24, 2008 the Town Council of the Town of Apple Valley conducted a duly noticed and advertised public hearing on General Plan Amendment No. 2004-002, Zone Change No, 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922, receiving testimony from the public and adopting Findings to deny the project and adopting Town Council Resolution No. 2008-\_\_\_\_, and

**WHEREAS**, proposed General Plan Amendment No. 2004-002, Zone Change No, 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922 are inconsistent with Town of Apple Valley General Plan and Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley and will be detrimental to the health, safety and general welfare of the citizens of the Town of Apple Valley.

**WHEREAS**, the Town Council conducted a duly noticed public hearing on June 24, 2008, and heard all testimony of any person wishing to speak on the issue and considered the written recommendation of the planning Commission on the matter.

**NOW, THEREFORE, BE IT RESOLVED, THAT, IN CONSIDERATION OF THE EVIDENCE RECEIVED AT THE PUBLIC HEARING, AND FOR THE REASONS DISCUSSED BY THE TOWN COUNCIL AT SAID HEARING, THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA DETERMINES AS FOLLOWS:**

**Section 1.** The Town Council of the Town of Apple Valley, California, finds that the proposed General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922 are inconsistent with the Goals and Policies of the Town of Apple Valley adopted General Plan, and in consideration of the evidence received at the public hearings, adopt the negative comments for the required Findings in the Staff Report for the June 4, 2008 Planning Commission Meeting, which do not support the required positive findings for approval, and based upon those said negative findings, deny General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922 as shown as the attached Exhibit A and incorporated herein by reference.

**Section 2.** Effective Date. This Resolution shall become effective immediately upon adoption by the Town Council of the Town of Apple Valley.

Adopted by the Town Council and signed by the Mayor and attested to by the Town Clerk this 24<sup>th</sup> day of June 2008.

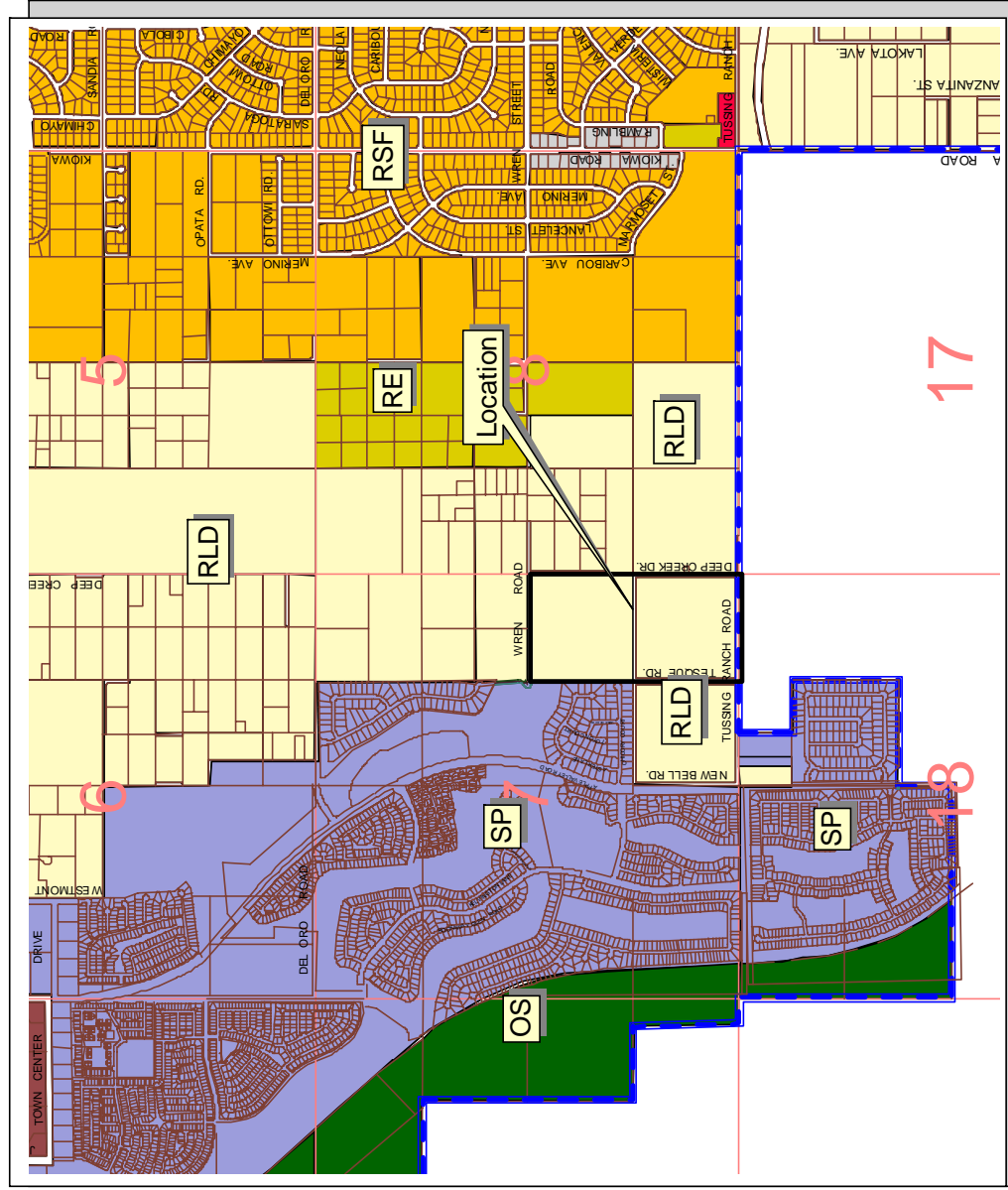
\_\_\_\_\_  
Honorable Timothy Jasper, Mayor

ATTEST:

\_\_\_\_\_  
Ms. La Vonda M. Pearson, Town Clerk

# Existing General Plan Land Use

## Deep Creek Estates General Plan Amendment No. 2004-002



The approximately eighty (80)-acre project area is located at the northwest corner of Deep Creek and Tusling Ranch Roads.  
APNs 0434-201-14 and -48.



- Land Use Designations**
- OS Open Space
  - R-LD Low Density Residential (1 DU per 2.5 to 5 Gross Acres)
  - R-E Estate Residential (1 DU per 1 to 2.5 Gross Acres)
  - R-SP Single-Family Residential (1 DU per 0.4 to 0.9 Net Acres)
  - SP Specific Plan

October 17, 2007



**Attachment No. 2**

**PLANNING COMMISSION RESOLUTION NO. 2007- 028**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMENDING THAT THE TOWN COUNCIL DENY THE SPECIFIC PLAN NO. 2004-002. THE SPECIFIC PLAN, "DEEP CREEK ESTATES" INCLUDES EIGHTY (80) ACRES OF SINGLE-FAMILY RESIDENTIAL AND RESIDENTIAL EQUESTRIAN, ONE (1) DWELLING UNIT PER MINIMUM HALF (1/2)-ACRE LOTS WITH SOME MINIMUM ONE (1) ACRE LOTS; FURTHER RECOMMENDS DENIAL OF GENERAL PLAN AMENDMENT 2004-002 TO CHANGE FROM THE GENERAL PLAN LAND USE DESIGNATION OF RESIDENTIAL LOW DENSITY (R-LD), ONE (1) DWELLING UNIT PER 2.5 TO 5.0 ACRES TO SPECIFIC PLAN (S-P) AND RECOMMENDS DENIAL OF ZONE CHANGE FROM RESIDENTIAL AGRICULTURE (R-A), ONE (1) DWELLING PER 2.5 TO 5.0 ACRE, ZONE DESIGNATION TO SPECIFIC PLAN (S-P) ZONE DESIGNATION, AND TENTATIVE TRACT MAP NO. 16922 WITHIN AN EIGHTY (80) ACRE PARCEL GENERALLY LOCATED AT THE NORTHWEST CORNER OF TUSSING RANCH ROAD AND DEEP CREEK ROAD; SECTION 7, TOWNSHIP 4 NORTH, RANGE 3 WEST OF SAN BERNARDINO MERIDIAN; APNS 0434-201-14 and -48; AND RECOMMENDS DENIAL OF TENTATIVE TRACT MAP NO. 16922.**

**WHEREAS**, the Town of Apple Valley General Plan was adopted by the Town Council on October 27, 1998; and

**WHEREAS**, the Town of Apple Valley General Plan has been previously amended by the Town Council on the recommendation of the Planning Commission; and

**WHEREAS**, Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley was adopted by the Town Council on October 24, 2000; and

**WHEREAS**, Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley has been previously amended by the Town Council on the recommendation of the Planning Commission; and

**WHEREAS**, specific changes are proposed to the Land Use Element of the adopted General Plan of the Town of Apple Valley by amending the Land Use Designation for parcels generally located on a site bordered on the north by Wren Road, on the south by Tussing Ranch Road and on the east by Deep Creek Road. APNs 0434-201-14 and -48 (Exhibit A); and

**WHEREAS**, specific changes are proposed to Chapter 9.05, Section 9.05.040 "Adoption of the Official Zoning Districts Map" of Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley by amending the zoning designation of parcels generally located on a site bordered located on a site bordered on the north by Wren Road, on the south by Tussing Ranch Road and on the east by Deep Creek Road. APNs 0434-201-14 and -48 (Exhibit A);

**WHEREAS**, on, May 2, 2008, General Plan Amendment and Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922; were duly

noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

**WHEREAS**, based upon the State Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15270, that a project which is denied by the Town is Exempt from CEQA, and

**WHEREAS**, on October 17, 2007, January 16, 2008, May 21, 2008 and June 4, 2008, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on General Plan Amendment and Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922, receiving testimony from the public; and

**WHEREAS**, the proposed General Plan Amendment and Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922 (Exhibit B) are not consistent with Town of Apple Valley General Plan and Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley and will not promote the health, safety and general welfare of the citizens of the Town of Apple Valley with the recommended modifications to the Specific Plan (Exhibit C).

**NOW, THEREFORE, BE IT RESOLVED, THAT IN CONSIDERATION OF THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, AND FOR THE REASONS DISCUSSED BY THE COMMISSIONERS AT SAID HEARING, THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, FINDS AND DETERMINES AS FOLLOWS AND RECOMMENDS THAT THE TOWN COUNCIL MAKE THE FOLLOWING FINDINGS AND TAKE THE FOLLOWING ACTIONS:**

**Section 1.** Denial of General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922, determines that the proposal is Exempt from CEQA.

**Section 2.** In consideration of the evidence received at the public hearing, and for the reasons discussed by the Commissioners at said hearings, the Planning Commission of the Town of Apple Valley, California, finds and recommends the Town Council find that General Plan Amendment and Zone Change No. 2004-002, Specific Plan No. 2004-002 (Exhibit C) and Tentative Tract Map No. 16922 (Exhibit B) are inconsistent with the Goals and Policies of the Town of Apple Valley adopted General Plan, adopt the required negative comments and findings recommended in the Staff Report for denial, and based upon those said negative findings, deny General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922.

Approved and adopted by the Planning Commission of the Town of Apple Valley this 4<sup>th</sup> day of June, 2008.

\_\_\_\_\_  
David Hernandez, Chairman

ATTEST:

I, Patty Hevle, 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 4<sup>th</sup> day of June, 2008, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

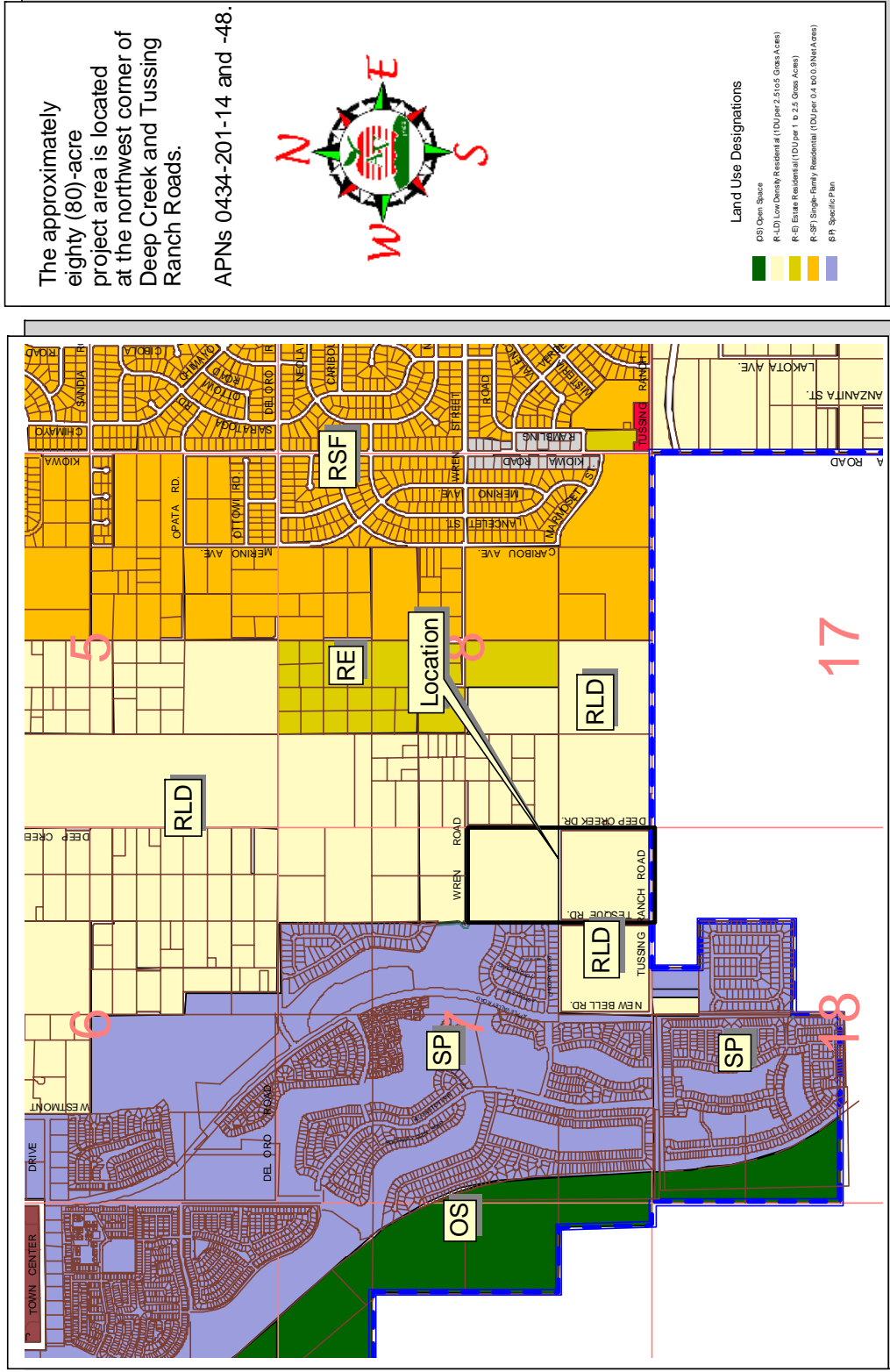
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Patty Hevle, Planning Commission Secretary

Exhibit "A" - Existing General Plan

Existing  
General Plan Land Use

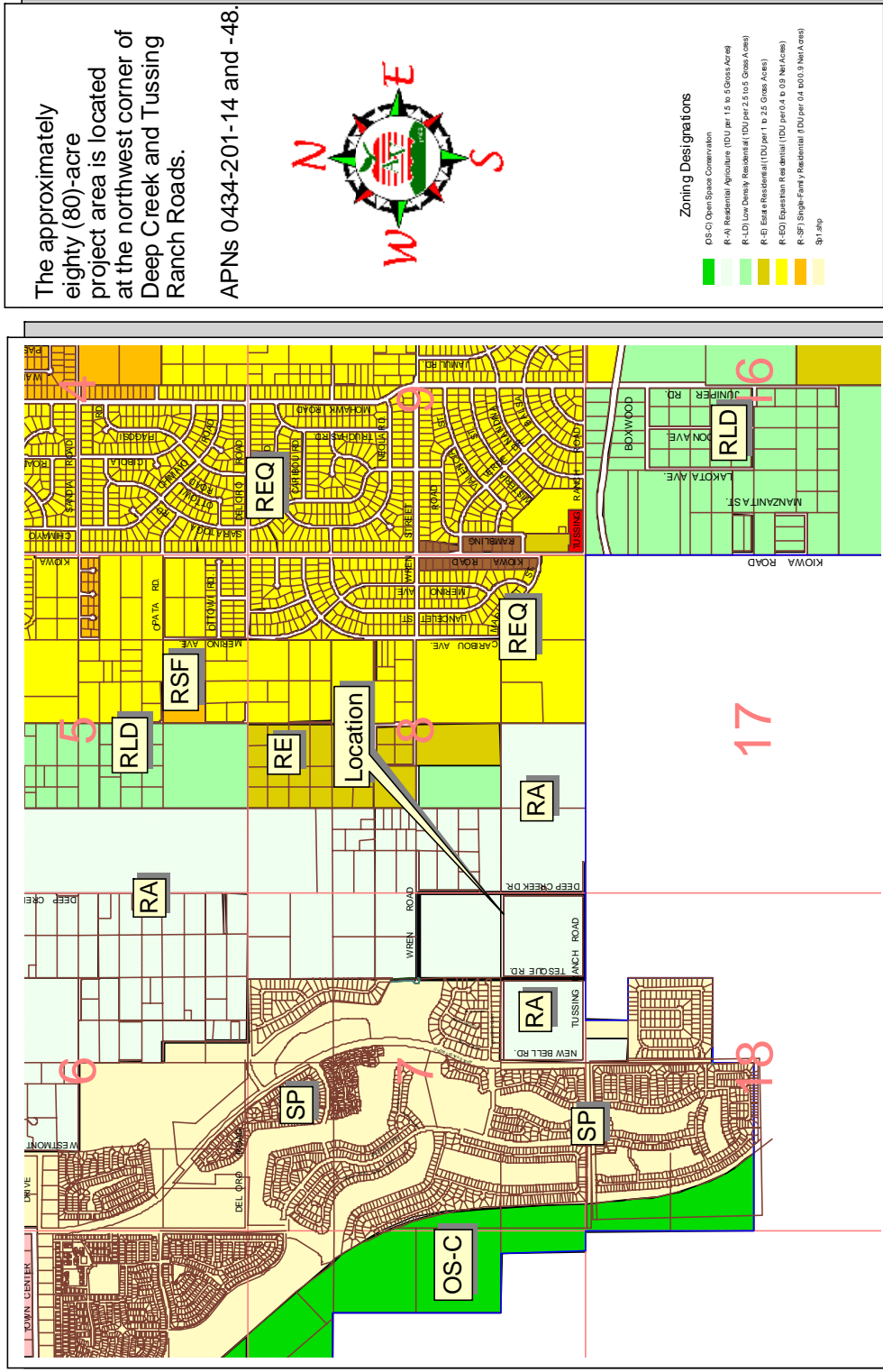
Deep Creek Estates  
General Plan Amendment No. 2004-002



October 17, 2007

Exhibit "A" – Existing Zoning

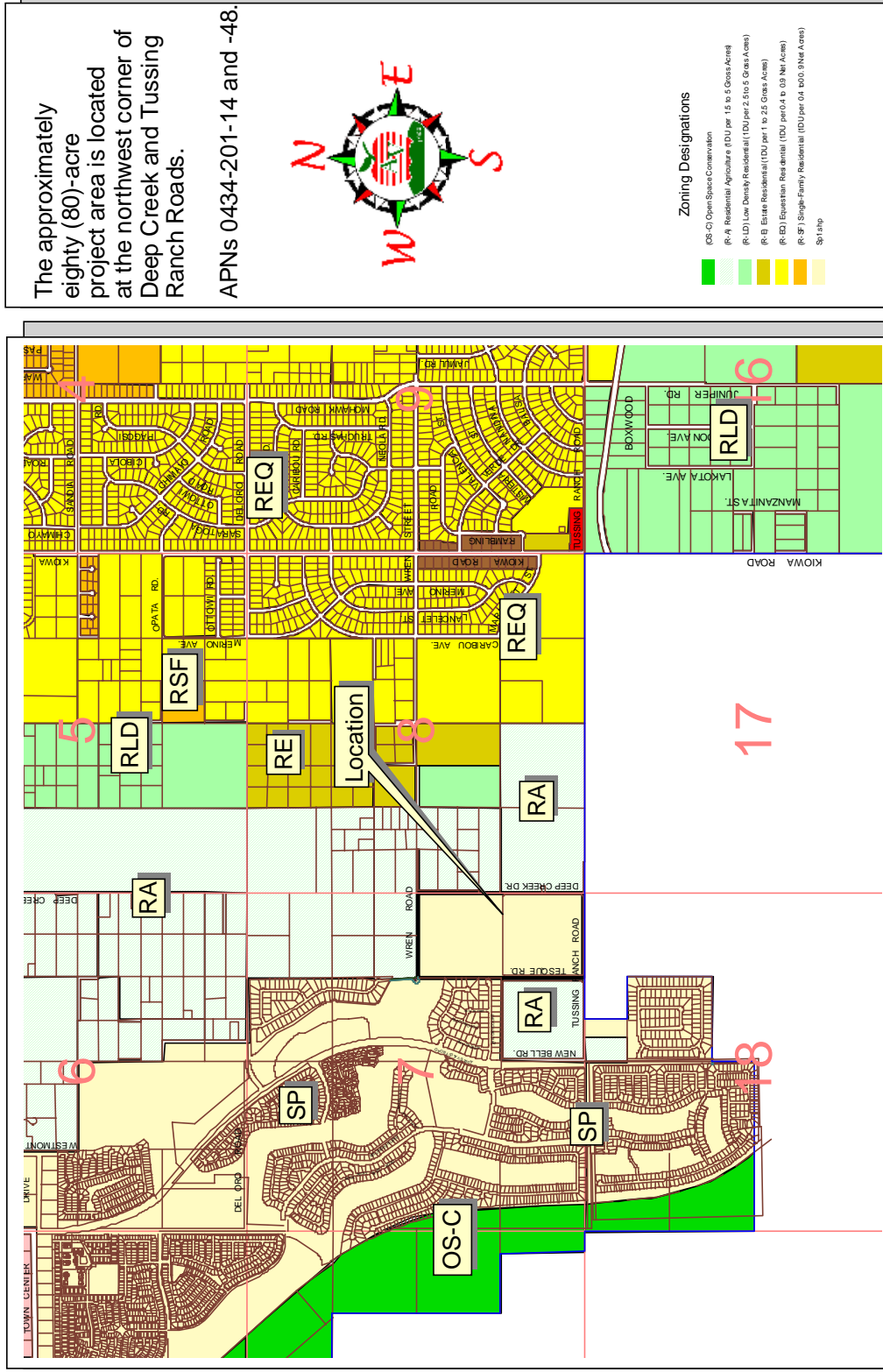
Existing Zoning Designation      Deep Creek Estates Zone Change No. 2004-002



October 17, 2007

Exhibit "B" - Proposed Zoning

Proposed Zoning Designation  
 Deep Creek Estates  
 Zone Change No. 2004-002

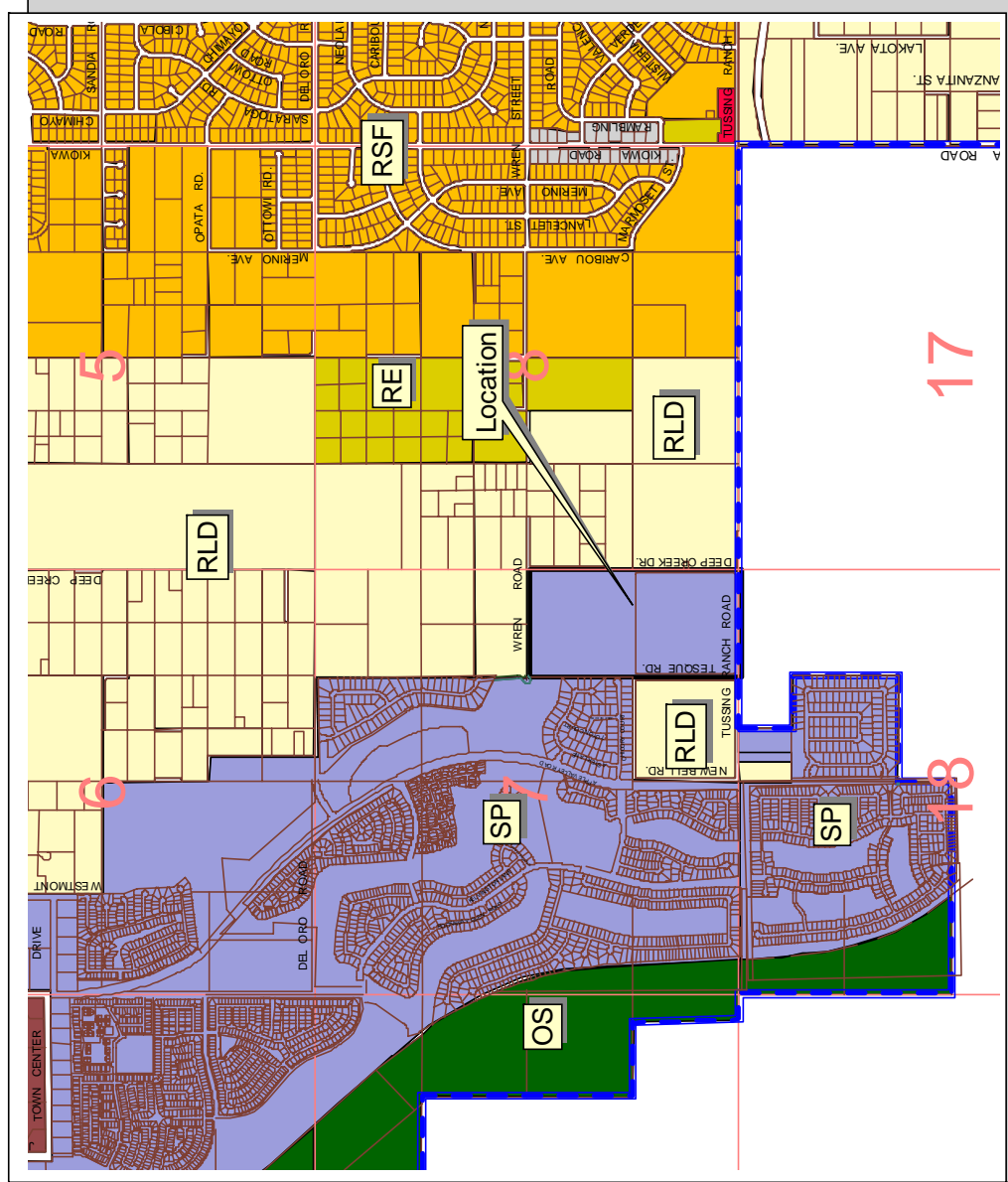


October 17, 2007

Exhibit "B" - Proposed General Plan

Proposed  
General Plan Land Use

Deep Creek Estates  
General Plan Amendment No. 2004-002



The approximately eighty (80)-acre project area is located at the northwest corner of Deep Creek and Tussing Ranch Roads.

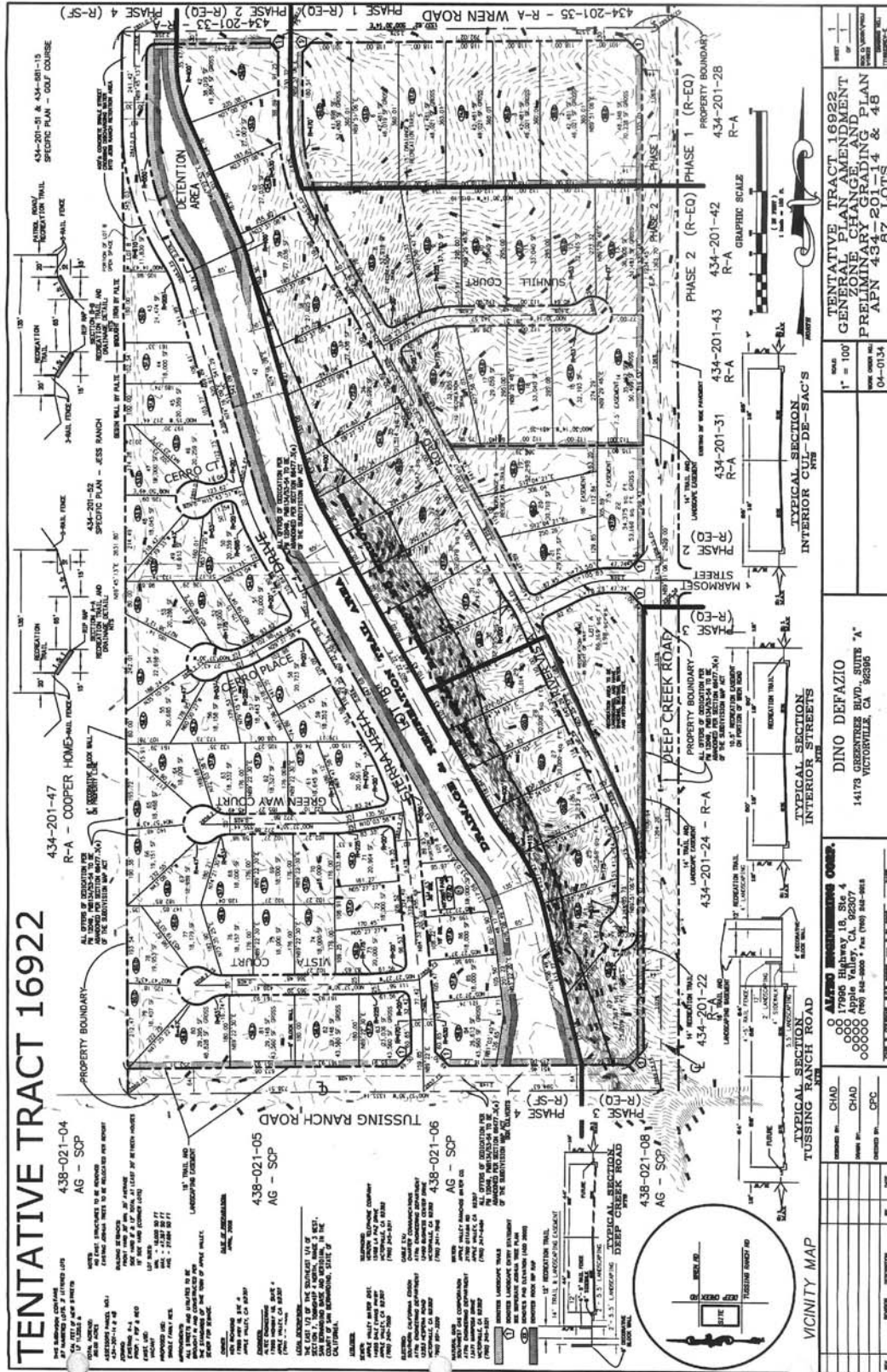
APNs 0434-201-14 and -48.

**Land Use Designations**

- OS Open Space
- RLD Low Density Residential (1 DU per 2.5 to 5 Acres)
- RE Estate Residential (1 DU per 1 to 2.5 Gross Acres)
- RSF Single-Family Residential (1 DU per 0.4 to 0.9 Net Acres)
- SP Specific Plan

October 17, 2007

Exhibit "C" Tentative Tract Map No. 16922





## Attachment No. 3

### Recommended Modifications to Specific Plan:

1. Combine lots to create one (1) larger park of two (2)-acre minimum size with better and more functional amenities for all the Deep Creek residents. *(Note: At the 4/22/08 Town Council meeting, the Town Council determined that one (1) large park of approximately two (2) acres in size shall be developed and is shown as Lot "A" on the TTM).*
2. Reduce the impact of the sound attenuation wall (Tussing Ranch Road) with enhanced wall design and materials. Including texture, detailing and changes in wall heights and extensive landscaping *(Exhibit 4-5a shows the conceptual Wall & Fence Plan, for the walls along Tussing Ranch and Deep Creek Roads).*
3. Landscaped areas:
  - a. Parkway street trees shall be a minimum of 24-inch box container size.
  - b. Street trees outside perimeter walls shall be a minimum of 24-inch boxed sized trees. Additional perimeter wall trees shall be a combination of 24-inch box and 15-gallon sizes trees.
  - c. Entrance trees shall be a combination of 24-inch, 36-inch and 48-inch box container size.
  - d. All landscaped areas shall be planted with sufficient 5-gallon shrubs and 1-gallon and smaller ground covers to create landscaping in accordance with the Town's Landscape Ordinance. Shrubs and ground covers shall be emphasized outside perimeter walls and at project entry points.

Drought-tolerant landscaping, per the Town's Landscape Ordinance, shall be emphasized outside the perimeter walls at project entry points along the meandering trail/pedestrian paths and other highly visible landscaped common areas. All landscape area plant type, size and spacing shall be determined by the Director of Economic and Community Development *(generally depicted as Exhibits 4-4, 5-2A and -2B and described in Section 4.4).*

4. All sidewalks shall be six (6) feet wide, except Tussing Ranch Road, which shall be in conformance with the General Plan Circulation Element *(shown on the TTM and Exhibit 5-2).*
5. The retention basin (Exhibit No. 6-4 northwest portion of Lot "B") will be planted with native plantings in groups of three (3) and five (5) in accordance with the Town's Landscape Ordinance. The slopes and bottom of the basin will be hydroseeded with native grasses and other native ground covers *(Shown in the Specific Plan as a retention basin depicted on Exhibit Nos. 4-7, 4-8, and 6-4 Stormwater Retention Basin Plan).*
6. Require that the Joshua Tree maintenance and monitoring program specify which Joshua Trees will be preserved in the project area in accordance with the site's Joshua preservation survey *(relocation depicted on Exhibit 4-7; language expanded in Sections 4.4.1, 4.5.2 and 7.5.3).*
7. The Homeowner's Association (HOA) shall be created to fund and manage a high level of maintenance, at all times, of the landscaping, structures and other facilities it is responsible for *(depicted in Exhibit 7-2 and further described in Section 7.5.1 in the Specific Plan).*

8. Redesign the Drainage Easement/Recreation Trail Channel to create a more natural look by including greater landscaping with sufficient trees and shrubs to create a fully landscaped channel and use of creative grading and rocks to both create a more natural look and to slow storm water runoff. This will be subject to the final drainage plan, as approved by the Town Engineer (*Exhibit Nos. 4-7 and 4-8*).
9. Redesign the “Open Space Easement – No Structures” area to include the residual property shown on the rear/side of Lot Nos. 24 to 36 (*shown on revised TTM and Exhibit 4-3*).
10. On Exhibit No. 7-1, the Phasing Plan should be numbered with appropriate phase numbers. Staff recommends that on Page 7-6, the paragraph under “Phase – Neighborhood Equestrian Area” should be deleted. The improvements on River Vista Road are required under Planning and Engineering Conditions of Approval with TTM No. 16922 (*Shown on revised Exhibit 7-1*).
11. Revise the development standards to prohibit further division of the perimeter one (1) - acre minimum buffer lots (*added by PC at 10/17/07 meeting and described in Section 4.3 Residential Development Standards*).

## Attachment No. 4

### TOWN OF APPLE VALLEY

#### RECOMMENDED CONDITIONS OF APPROVAL

##### Case No. Tentative Tract Map No. 16922

Please note: *Many of the suggested Conditions of Approval presented herewith are provided for informational purposes and are otherwise required by the Municipal Code. Failure to provide a Condition of Approval herein that reflects a requirement of the Municipal Code does not relieve the applicant and/or property owner from full conformance and adherence to all requirements of the Municipal Code.*

#### Planning Division Conditions of Approval

- P1. This tentative subdivision shall comply with the provisions of the State Subdivision Map Act and the Town Development Code. This tentative approval shall expire three (3) years from the date of approval by the Planning Commission/Town Council. A time extension may be approved in accordance with the State Map Act and Town Ordinance, if an extension application is filed and the appropriate fees are paid thirty (30) days prior to the expiration date. The Tentative Tract Map becomes effective ten (10) days from the date of the decision unless an appeal is filed as stated in the Town's Development Code.
- P2. Prior to approval of the Final Map, the following agencies shall provide written verification to the Planning Division that all pertinent conditions of approval and applicable regulations have been met:
- Apple Valley Fire Protection District
  - Apple Valley Ranchos Water Company
  - Apple Valley Public Services Department
  - Apple Valley Engineering Division
  - Apple Valley Planning Division
  - California Department of Fish & Game
- P3. Upon approval of the Tentative Tract Map No. 16922, the applicant shall be responsible for the payment of all CEQA-mandated environmental review and filing fees to the Department of Fish and Game and/or the San Bernardino County Clerk of the Board of Supervisors.
- P4. The applicant shall agree to defend at his sole expense (with attorneys approved by the Town), and indemnify the Town against any action brought against the Town, its agents, officers or employees resulting from or relating to this approval. The applicant shall reimburse the Town, its agents, officers or employees for any judgment, court costs and attorney's fees which the Town, its agents, officers or employees may be required to pay as a result of such action. The Town may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of these obligations under this condition.
- P5. Approval of the Tentative Tract Map No. 16922 by the Planning Commission is understood as acknowledgement of Conditions of Approval by the applicant, unless an appeal is filed in accordance with Section 9.12.250, Appeals, of the Town of Apple Valley Development Code.

- P6. Prior to recordation the applicant shall provide the Planning Division with a copy of the subdivision in an electronic format compatible with the Town's current technology.
- P7. All slopes over three (3) feet in height shall be landscaped and irrigated according to Town standards.
- P8. Any protected desert plants or Joshua Trees impacted by the development are subject to the regulations specified in Section 9.76.020 (Plant Protection and Management) of the Development Code. Prior to the issuance of a Grading Permit, a study by a qualified Native Plant Expert shall be prepared to determine if the identified trees will be saved, located or removed, in compliance with the Town's Native Plant Protection Ordinance.
- P9. Lot design, size and development phasing shall conform to development standards and Conditions of Approval contained within the Deep Creek Estates Specific Plan Development Standards and Tentative Tract No. 16922. The specific standards contained within the Deep Creek Estates supersede those contained within the Town Development Code. Topics not addressed by the Deep Creek Estates Specific Plan shall be governed by the Town Development Code.
- P10. A six (6)-foot six (6)-inch high sound barrier shall be provided on the lots adjacent to Tussing Ranch Road at the landscape setback line. The noise control barriers may be constructed using one of the following materials:
  - a. Decorative masonry block
  - b. Stucco on Wood Frame
  - c. 3/4 –inch plywood
  - d. 1/4-inch glass or 1/2 –inch LEXAN
  - e. Any combination of these materials or any material rated 3.5 pounds per square foot surface weight or greater.

Each completed noise control barrier must present a solid face from top-to-bottom. Cutouts and openings are not permitted except for drain holes.

- P11. The buildings shall be constructed at a minimum in accordance with Table 10 below. Any two story homes constructed along Tussing Ranch Road shall install windows with a Sound Transmission Class (STC) rating as high as STC 32.

**TABLE 10:**

<u>Panel</u>	<u>Construction</u>
Exterior Wall	7/8-inch stucco or siding, 2-inch by 4-inch studs, R-13 fiberglass insulation, drywall.
Windows	Dual pane
Door	Solid Core Wood with weather stripping
Roof	Shingle or tile over sheathing, R-19 fiberglass Insulation, drywall, vented
Floor	Carpeted except for kitchen and baths.

- P12. If the developer constructs custom homes that consist of clearly different elevations and floor plans, with no two (2) homes the same, a Development Permit shall not be required, but shall be consistent with the Deep Creek Estates Specific Plan Design Guidelines.
- P13. Subdivision walls shall be constructed of slump stone, split face or masonry material, along the perimeter of the property lines. However, within the hillside areas, wrought iron and/or tubular fencing may be constructed. Prior to recordation of the Final Map, the Developer/applicant shall submit detailed plans showing all proposed walls for this subdivision subject to approval by the Director of Economic and Community Development (or designee).
- P14. If the tract map is adjacent to existing development, a fence/wall plan shall be submitted with the grading and landscape/irrigation plans to identify how new fencing or walls will relate to any existing fences or walls located around the perimeter of the tract/parcel map. The developer shall be required to connect to the existing fencing/walls or collaborate with the adjacent property owners to provide new fencing/walls and remove the existing fence/wall, both options at the developer's expense. Double fencing shall be avoided and review and approval of the fencing/wall plan is required prior to issuance of grading permits.
- P15. The project shall conform to the R-SF, Residential Single-Family and R-EQ, Equestrian Residential, development standards for front, side and rear yard-building setbacks in conformance with the Deep Creek Estates Development Standards.
- P16. The project shall incorporate sidewalks, which shall be shown on Engineering Improvement Plans, subject to approval by the Director of Economic and Community Development (or designee).
- P17. Prior to grading of the site, updated Biological Studies (Desert Tortoise, Mohave Ground Squirrel, Burrowing Owl) shall be submitted to ensure that special status species have not move onto the site since the date of the initial biological survey conducted in August 23, 2007.
- P18. Prior to issuance of a grading permit, clearance from the California Department of Fish and Game must be obtained for any permits deemed necessary for the location or habitat of the Mojave Ground Squirrel.
- P19. During grading of any phase of the project, the site shall be monitored to ensure that the presence of any sensitive or special status animal species is not evident. A pre-construction survey shall be conducted prior to land clearing to ensure the special status species (Desert Tortoise, Mohave ground squirrel, burrowing owl, sharp-shinned hawk and loggerhead shrike) have not moved on to the site since the August 23, 2007 date of the Biological Survey. In the event evidence of special status species are present, appropriate permits shall be obtained from the U.S. Fish and Wildlife Service and California Department of Fish and Game (CDFG).
- P20. The project shall also conform to the Open Space Conservation (OS-C) and the Hillside Ordinance development standards as identified in the Deep Creek Estates Specific Plan and Town of Apple Valley Development Code.

- P21. A copy of the final grading plan shall be submitted to the Planning Division for review and approval.
- a. All on-site cut and fill slopes shall be limited to a maximum slope ratio of 2 to 1 and a maximum vertical height of thirty (30) feet. Setbacks from top and bottom of slopes shall be a minimum of one-half the slope height.
  - b. Slopes shall be contour graded to blend with existing natural contours.
  - c. Slopes shall be a part of the downhill lot when within or between individual lots.
- P22. The Covenants, Conditions and Restrictions (CC&Rs) shall be reviewed and approved by the Planning Division prior to final approval of the Tract map. Prior to the sale of the first residential lot for private occupancy, a Homeowner's Association, or Mutual Benefit Corporation, shall be formed or incorporated to control and maintain the common privately owned properties/areas within said community. Said Homeowner's Association, or corporation, shall be reviewed by the Town prior to the sale of the first lot within the community and acceptable Covenants, Conditions & Restrictions (CC&Rs) shall be created to identify all of the duties and costs associated with both the short- and long-term maintenance and repair of the facilities and features of the common areas. The CC&Rs should specify that the Homeowner's Association shall be responsible for the enforcement of the CC&Rs. CC&Rs created for a community shall detail the short and long-term maintenance and operation of all streets, common areas and facilities within a development, including all interior and exterior landscaping (if not covered by a Landscape Maintenance District), walls, stacking areas, cross-lot drainage structures and recreational facilities, etc. The CC&Rs shall be submitted to the Town of Apple Valley for review and approval prior to the approval of the final map. The Town of Apple Valley shall not be a party to any CC&Rs created for a community and shall not enforce any provisions of said CC&Rs.
- P23. A clear and comprehensive disclosure document shall be provided to each prospective home/lot buyer that presents the responsibilities, liabilities and costs of both the short- and long-term maintenance and liability of all common areas as detailed within the CC&Rs, as well as the method(s) of the Homeowner's Association or corporation's enforcement of the CC&Rs.
- Acknowledgement of receipt of this disclosure document, on forms provided by the Community Development Department of the Town of Apple Valley, and signed by the prospective buyer, shall be retained by the Homeowner's Association, or corporation, and a copy of said form shall be provided to the Town of Apple Valley prior to occupancy of any home built upon the lot purchased.
- P24. Prior to recordation of Final Map, three (3) sets of detailed landscaping and irrigation plans for the parkway area and subdivision entrances, prepared by a qualified licensed landscape professional, shall be submitted to the Planning Division for review and approval. The landscape and irrigation plans shall be prepared in compliance with the applicable landscape section of the Town Development Code.
- P25. All site amenities, including landscaping and irrigation, as shown on plans approved by the Town Planning Division, shall be installed prior to Final Occupancy of the first

residential unit of Phase No. 2. Landscaping shall utilize drought tolerant, desert appropriate landscaping wherever feasible.

- P26. The applicant/developer shall install the landscaping along the perimeter of the development and within the retention/detention basins. The applicant/developer shall form a Homeowner's Association (HOA) to maintain the Open Space areas of the development, subject to review by the Town Attorney.
- P27. The Town Engineer, or designee, shall determine and approve that trails within the drainage easement are properly sloped and accessible for trail development and use. All trails adjacent to the drainage easement, as currently proposed, shall be built with white rail fencing separating the trail from the drainage channel.
- P28. All major and secondary streets (Deep Creek Road and Tussing Ranch Road) shall be dedicated and developed with a twelve (12)-foot wide trail easement, in addition to the right-of-way, on the north and west side. These trails should provide a meandering trail path, reducing straight lines/corridors where possible.
- P29. All trails shall be offered for dedication and developed in conformance with the Town's Multi-Use and Equestrian Trails Standards and Figure C-6, as adopted at time of map recordation
- P30. The Final Map shall show and record a non-vehicular access agreement for all lots fronting Tussing Ranch and Deep Creek Roads.
- P31. All applicable conditions and mitigation measures of the Deep Creek Estates Specific Plan shall apply to this map.
- P32. Any improvements along River Vista Road shall be completed concurrently with and prior to the Certificate of Occupancy of Lot No. 42. Improvements may include additional split rail fencing for horse training and/or horse showing.
- P33. The Neighborhood Recreation Trail Easements shall be integrated within the development located primarily along the rear of interior lots as shown on the Tentative Tract Map No. 16922 and conform to the Multi-Use Recreational Trails standards.
- P34. The completion of the park (Lot "A") shall occur at the beginning of Phase No. 2 and shall have all amenities constructed, subject to review and approval of the Planning Division.
- P35. The approval of TTM No. 16922 is conditioned upon the adoption of the GPA, SP and ZC becoming effective.

#### **Parks and Recreation Department Condition of Approval**

- PR1. Prior to issuance of building permits for new construction, the developer, or assignee, is subject to fees in compliance to the Park and Recreation Department Quimby Ordinance, subject to review by the Planning Division.

### **Building and Safety Division Conditions of Approval**

- BC1. An engineered grading report, including soils engineering and engineering geology, shall be filed with, and approved by, the Building Official prior to recordation of final map.
- BC2. Grading and drainage plans, including soils report, are to be submitted to, and approved by, the Building Official prior to permit issuance.
- BC3. Submit plans for approval and obtain all permits for all structures and walls.
- BC4. A pre-construction permit and inspection are required prior to any land disturbing activity to verify requirements for erosion control, flood hazard, native plant protection and desert tortoise habitat.
- BC5. A Notice of Intent (NOI) and a Storm Water prevention Plan (SWPP) must be submitted to, and approved by, the Engineering and Building Departments prior to issuance of a grading permit and or any land disturbance.
- BC6. All utilities shall be placed underground in compliance with Town Ordinance no. 89.
- BC7. Erosion control plans are to be submitted to, and approved by, the Building Official prior to issuance of permits.
- BC8. A pre-grading meeting is required prior to beginning any land disturbance. This meeting will include the Building Inspector, General contractor, Grading Contractor, soils technician and any other parties required to be present during grading process such as Biologist, Paleontologist.
- BC9. A dust palliative or hydro seed will be required on those portions of the site graded but not constructed (phased construction).
- BC10. Page No. 2 of the submitted building plans will contain the Final Conditions of Approval.
- BC11. Construction must comply with 2001 California Building codes.
- BC12. Best Managements Practices (BMPs) are required for the site during construction.

### **Engineering Division Conditions of Approval**

- EC1. A final drainage plan with street layouts shall be submitted for review and approval by the Town Engineer showing provisions for receiving and conducting offsite and onsite tributary drainage flows around or through the site in a manner which will not adversely affect adjacent or downstream properties. This plan shall consider reducing the post-development site-developed flow to ninety (90) percent of the pre-development flow for a 100 year design storm. (Town Resolution 2000-50; Development Code 9.28.050.C, 9.28.100)
- EC2. Street improvement plans shall be submitted to the Town Engineer for review and approval.



- EC3. All interior streets shall be improved to Town standards with curb, gutter and street pavement. Minimum residential width of streets shall be thirty-six (36) feet curb to curb.
- EC4. All streets abutting the development shall be improved a minimum half-width of twenty-eight (28) feet improvements standards with curb, gutter and sidewalk on the development side.
- EC5. A forty (40)-ft wide (30 half-width plus 10') road dedication along Wren Road adjacent to the property shall be granted to the Town of Apple Valley prior to Final Map Approval.
- EC6. A forty-four (44)-ft wide half-width road dedication along Deep Creek Road adjacent to the property shall be granted to the Town of Apple Valley prior to Final Map Approval.
- EC7. A sixty-four (64)-ft wide half-width road dedication along Tussing Ranch Road adjacent to the property shall be granted to the Town of Apple Valley prior to Final Map Approval.
- EC8. Additional right of way at the intersection of Deep Creek Road and Tussing Ranch Road per the Town's supplemental lanes standard shall be required prior to final map Approval.
- EC9. Wren Road adjacent to the property shall be improved to the Town's half-width Local street standards.
- EC10. Deep Creek adjacent to the property shall be improved to the Town's half-width Secondary street standards.
- EC11. Tussing Ranch Road adjacent to the property shall be improved to the Town's half-width Major Divided street standards.
- EC12. During the grading of the streets, soils testing of the street subgrades by a qualified soils engineering firm shall be performed to determine appropriate structural street section. Minimum asphalt concrete thickness for all streets shall be 0.33 ft.
- EC13. All required improvements shall be bonded in accordance with Town Development Code unless constructed and approved prior to approval and recordation on the Final Map.
- EC14. An encroachment permit shall be obtained from the Town prior to performing any work in any public right of way.
- EC15. Final improvement plans and profiles shall indicate the location of any existing utility which would affect construction and shall provide for its relocation at no cost to the Town.
- EC16. A final grading plan shall be approved by the Town Engineer prior to issuance of a grading permit. A grading permit shall not be issued until street improvement plans have been submitted to the Town Engineer for review and substantial completion of the street plans has been attained as determined by the Town Engineer.
- EC17. The developer shall form or annex into an assessment district to provide for the ongoing maintenance of the retention basin and accessory structures, street lights, and parkway landscaping, shall be formed by the developer prior to final map approval. The assessment district is required and will be implemented in the event the Home Owner's Association becomes dysfunctional.

- EC18. All street names shall be approved by the Town and such approval shall be coordinated through the Town Engineer.
- EC19. The developer shall present evidence to the Town Engineer that he has made a reasonable effort to obtain a non-interference letter from any utility company that may have rights of easement within the property boundaries.
- EC20. Utility lines shall be placed underground in accordance with the requirements of the Town.
- EC21. The developer shall make a good faith effort to acquire the required off-site property interests. If the developer fails to acquire those interests the developer shall, at least 120 days prior to submittal of the final map for approval, enter into an agreement to complete the improvements pursuant to Government Code Section 66462 at such time as the Town acquires the property interests required for the improvements. Such agreement shall provide for payment by the developer of all costs incurred by Town to acquire the off-site property interests required in connection with the subdivision. Security for a portion of these costs shall be in the form of a cash deposit in the amount given in an appraisal report obtained by the developer, at the developer's cost. The appraiser shall have been approved by the Town prior to commencement of the appraisal. Additional security may be required as recommended by the Town Engineer and Town Attorney.
- EC22. Traffic impact fees adopted by the Town shall be paid by the developer.
- EC23. Any developer fees adopted by the Town including but not limited to drainage fees shall be paid by the developer.
- EC24. Any required street striping shall be thermoplastic as approved by the Town Engineer.
- EC25. Unimproved Cross lot drainage shall not be allowed. The Home Owner's Association shall maintain all improved cross-lot drainage.
- EC26. The developer shall obtain and submit to the Planning Division prior to occupancy, the following signed statement by the purchasers of the homes located within the Landscape and Lighting Assessment district (subject to final approval by the Town Attorney): "In purchasing the home, I am aware that the home is located in the boundaries of a Landscape and Lighting Assessment District for the maintenance of drainage, landscaping, fencing and other similar improvements and that an annual landscaping maintenance charge shall be levied in the event the Home Owner's Association becomes dysfunctional.
- EC27. In the event that an applicant/developer chooses to seek Council approval of the Final Map prior to completion of the required improvements, an "Agreement for Construction of Improvements" shall be required. In accordance with the California Labor Code, any such Agreement will contain a statement advising the developer that certain types of improvements will constitute a public project as defined in California Labor Code, Sections 1720, and following, and shall be performed as a public work, including, without limitation, compliance with all prevailing wage requirements.

EC28. Easements, as required for roadway slopes, drainage facilities, utilities, access to adjacent properties, etc., shall be submitted and recorded as directed by the Town Engineer. No structures shall be placed on any part of the easements except those directly related to the purposes of said easements.

EC29. The detention basin shall be designed to include the Town's Standard Two-Stage drywells, subject to review and approval by the Town Engineer.

**Public Works Division Conditions of Approval**

**Prior to Map Recordation:**

PW1. A sewer feasibility study is required to determine how public sewer collection can be provided by the Town of Apple Valley. Contact the Apple Valley Public Works Department (760-240-7000 ext. 7500) to determine procedure and costs associated with completing said study.

PW2. Sewage disposal shall be by connection to the Town of Apple Valley sewer system. Financial arrangements, plans and improvement agreements must be approved by the Town of Apple Valley Public Works Department.

PW3. Buy-in fees will be required prior to Recordation. Contact the Public Works Department for costs associated with said fees.

**NON-STANDARD CONDITIONS:**

**Applies only to construction phase one, lots 1 through 7 along Wren Road.**

PW4. Soil percolation testing for the subsurface disposal system shall meet the requirements of the Town. Submit test results and appropriate fee to the Town Engineer for review.

**Apple Valley Fire Protection District Conditions of Approval**

FD1. The above referenced project is protected by the Apple Valley Fire Protection District. Prior to construction occurring on any parcel, the owner shall contact the Fire District for verification of current fire protection development requirements.

FD2. The development and each phase thereof, shall have two points of paved access for fire and other emergency equipment, and for routes of escape which will safely handle evacuations. Each of these points of access shall provide an independent route into the area in which the development is located. This shall be completed prior to any combustible construction Apple Valley Fire Protection District Ordinance 22, Section (I) Install per A.V.F.P.D. Standard ARI #8.

FD3. Fire lanes shall be provided with a minimum width of twenty-four (24) feet, maintained, and identified. Apple Valley Fire Protection District Ordinance 41 Install per A.V.F.P.D. Standard Series #202.

FD4. A turnaround shall be required at the end of each roadway 150 feet or more in length and shall be approved by the Fire District. Cul-de-sac length shall not exceed 1,000 feet.

Turning radius on all roads within the facility shall not be less than twenty-two (22) feet inside and minimum of forty (40) feet outside turning radius with no parking on street, or forty-seven (47) feet with parking. Road grades shall not exceed twelve percent (12%) unless approved by the Chief. Uniform Fire Code, Section 902.2.2.3 Apple Valley Fire Protection District Ordinance 22, Section 1 (e). Install per A.V.F.P.D. Standard Series #202.

- FD5. Plans for fire protection systems designed to meet the fire flow requirements specified in the Conditions of Approval for this project shall be submitted to and approved by the Apple Valley Fire Protection District and water purveyor prior to the installation of said systems. Apple Valley Fire Protection District, Ordinance 42.
- A. Unless otherwise approved by the Fire Chief, on-site fire protection water systems shall be designed to be looped and fed from two (2) remote points.
- B. System Standards:  
\*Fire Flow 500 GPM @ 20 psi Residual Pressure  
Duration 1 Hour(s)  
Hydrant Spacing 660 Feet  
\*If blank, flow to be determined by calculation when additional construction information is received. Install per A.V.F.P.D. Standard Series #101.
- C. A total of nine (9) fire hydrant(s) will be required. It is the responsibility of the owner/developer to provide all new fire hydrants with reflective pavement markers set into pavement and curb identification per A.V.F.P.D. Standard Install per A.V.F.P.D. Standard Series #101.
- FD6. An approved fire sprinkler system shall be installed throughout any building:
- 5,000 square feet or greater, including garage and enclosed areas under roof, or
  - Other per California Building Code requirements. Apple Valley Fire Protection District, Ordinance 41.
- FD7. Apple Valley Fire Protection District Final Subdivision/Tract/Development fees shall be paid to the Fire District prior to final map acceptance according to the current Apple Valley Fire Protection District Fee Ordinance.
- FD8. The developer shall submit a map showing complete street names within the development, to be approved by the Fire District prior to final map.

### **End of Conditions**

Attachment No. 5

**TOWN OF APPLE VALLEY, CALIFORNIA  
AGENDA MATTER**

**Subject Item:**

**GENERAL PLAN AMENDMENT NO. 2004-002, ZONE CHANGE 2004-002, SPECIFIC PLAN NO. 2004-002 AND TENTATIVE TRACT MAP NO. 16922. THE REQUEST IS FOR A SPECIFIC PLAN (“DEEP CREEK ESTATES”). THE PROPOSAL CHANGES APPROXIMATELY EIGHTY (80) GROSS ACRES WITH A CURRENT RESIDENTIAL LOW DENSITY (R-LD), ONE (1) DWELLING UNIT PER 2.5 TO 5.0 GROSS ACRE LAND USE DESIGNATION TO SPECIFIC PLAN (S-P) FOR THE SUBJECT AREA AND A REQUEST TO CONSIDER CHANGING THE ZONING DESIGNATION FROM RESIDENTIAL AGRICULTURE (R-A), ONE (1) DWELLING UNIT PER 2.5 TO 5.0 GROSS ACRE TO SPECIFIC PLAN (S-P) FOR THE SUBJECT AREA. THE APPLICANT HAS REQUESTED TO SUBDIVIDE THE TOTAL EIGHTY (80) GROSS ACRE SITE, UNDER TENTATIVE TRACT MAP NO. 16922, INTO EIGHTY-SEVEN (87) SINGLE FAMILY LOTS. ALL LOTS ARE SINGLE-FAMILY RESIDENTIAL AND WILL RANGE FROM 18,000 SQUARE FEET TO 57,748 SQUARE FEET IN SIZE. THE APPROXIMATELY EIGHTY (80)-ACRE SITE IS GENERALLY LOCATED ON THE NORTHWEST CORNER OF TUSSING RANCH AND DEEP CREEK ROADS; APNS 0434-201-14 and -48.**

**Recommended Action:**

**Move to open public hearing and take testimony.  
Close the public hearing. Then:**

4. **Determine** that, based on the Negative Comments to the required Findings for approval, the project is denied. The proposed General Plan Amendment and Zone Change are inconsistent with the Goals and Policies of the General Plan and has the potential to negatively impact the adjacent low density residential neighborhoods.
5. **Find** that the facts presented in the staff report, including the attached Planning Commission staff reports for October 17, 2007 and January 16, 2008, do not support the required Findings for approval and adopt the negative comments in the staff report relating to the required Findings for approval.
6. **Adopt** Town Council Resolution No. 2008- \_\_\_\_ to:
  - a. **Deny** General Plan Amendment No. 2004-002, a proposal to change the existing land use designation of Residential Low Density (R-LD) to Specific Plan (S-P).
  - b. **Deny** Zone Change No. 2004-002, a proposal to change the existing zoning designation of Residential Agriculture (R-A) to Specific Plan (S-P).
  - c. **Deny** Specific Plan No. 2004-002, a proposal to develop single-family residential lots on the subject site.
  - d. **Deny** Tentative Tract Map No. 16922, a request to subdivide the eighty (80)-acre site into eighty-seven (87) single-family residential lots for future development on the subject site.

**Proposed by:**                     Planning Division                    

**Item Number** \_\_\_\_\_

**Town Manager Approval:** \_\_\_\_\_

**Budget Item**  Yes  No  N/A

## Summary Statement:

In recognition of the length and complexity of this staff report, Council should be aware that the first page of this report represents an Executive Summary of the contents contained herein. The applicant submitted General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan 2004-002 and Tentative Tract Map No. 16922, "Deep Creek Estates", which is located in a Residential Low Density (R-LD) General Plan land use designation area. The procedures for this application is consistent with provisions of the General Plan, Section 9.03.020 "General Plan Consistency" of the Town's Development Code, that authorizes Specific Plan consideration and approval with a General Plan Amendment. Since the project is located in the 'Deep Creek Area', a Specific Plan is required as described in General Plan Land Use Policy LU 6.2 which states:

*"The Town will encourage 2.5 acre minimum lots in areas which have historically been used for agriculture. Increases in density in the Deep Creek Area shall require the preparation of a specific plan. Development in this area should be clustered maintaining to the maximum extent feasible the rural character of the site. The specific plan shall address in detail the provision of adequate infrastructure and services, including circulation, as well as compatibility with agricultural uses in the vicinity and the development's relationship to adjacent properties".*

The Planning Commission conducted two (2) public hearings (October 17, 2007 and January 16, 2008) to review and take testimony for the above referenced project. Upon receiving staff's analysis, testimony from the applicant, the public and subsequent Commission discussion, the Planning Commission considered a motion to approve the project. The motion failed on a 2 to 2 vote, with one (1) Commission member recused from the dais as a result of a stated conflict of interest. Pursuant to State law, a majority vote of the Commission (3 votes) is required for approval of a General Plan Amendment (GPA), Zone Change (ZC) or Specific Plan (SP) and the 2-2 vote is, therefore, technically determined as a denial of the project.

The Specific Plan, as submitted, does not conform to the Town's Development Code relating to Specific Plans. The subject property is suitable for development, although the proposed land uses are not complementary to the surrounding low density residential neighborhoods as proposed. The proposed Specific Plan and Tentative Tract Map lack the details necessary to assure the project meets the development standards envisioned for this project. The proposed project is not consistent with, and complementary to, an integrated, internally consistent and compatible statement of policies for the Town's General Plan. The designated Open Space and Drainage Easement do not have a natural appearance with adjacent areas and do not relate to the desert environment by implementing xeriscape landscaping requirements, the use of water-conserving irrigation, and retention of the existing bluffs through grading for individual lots, rather than mass grading. The Specific Plan and Tentative Tract Map do not provide appropriate design standards, minimum of one (1)-acre lots, setbacks and landscaping in order to buffer the proposed development from the surrounding existing and anticipated rural residential neighborhoods. The overall amenity package that is offered is insufficient and the project appears to be a typical subdivision. In addition to increasing park sizes and associated amenities, the Commission requested that the project provide a minimum lot size of one (1)-acre for the project. The applicant has stated his unwillingness to make this change and requested that the project go forward to the Town Council as submitted. It is important to note that the Deep Creek Estates Specific Plan does not exceed normal standard Development Code requirements other than the two (2) park sites as proposed.

## **Background:**

At the October 17, 2007 Planning Commission meeting, staff recommended approval of the GPA, ZNC, Specific Plan and Tentative Tract Map No. 16922, with the condition that the Specific Plan be modified to staff's recommendations. The October 17, 2007 staff report, with findings for approval, is attached to this report. At the October 17<sup>th</sup> meeting, Chairman Hernandez stated that the project did not meet the General Plan Land Use Policies and did not provide adequate buffering. Vice-Chairman Tinsley felt the project had issues that needed to be resolved between the applicant and staff. Commissioner Putko agreed that there were many issues that needed to be resolved between staff and the applicant.

At the October 17<sup>th</sup> meeting the Commission directed the applicant to modify the Specific Plan, as recommended by staff, and to increase lot sizes to one (1)-acre minimum. This also included reducing the length of River Vista Road (cul-de-sac) and combining lots on the southeast portion to create one (1) or two (2) larger parks of one (1)-acre minimum lot size with better and functional amenities.

The Commission directed that the item be brought back on December 5, 2007, with recommended changes by staff and comments made by the Commission. The applicants, Mr. Carl Coleman and Mr. Dino DeFazio, indicated their approval of a continuance to the first meeting in December so they could work with staff to resolve some of the issues that were presented. Even so, Mr. DeFazio stated that, although they would work with staff on the issues discussed at the public hearing, and in response to Chairman Hernandez's request, he indicated he did not intend to increase the lot sizes and would take this issue to the Council. Chairman Hernandez indicated that if the applicant was not willing to increase lot sizes, that a continuance to December would just be postponing the issue at hand. He stated his opposition to a continuance and recommended the Commission deny the project.

Staff met with the applicant(s) on October 29, 2007 to review the proposed modifications and corrections to the Deep Creek Estates Specific Plan and Staff Report. The applicant was informed that the project could be considered at the December 5, 2007 Planning Commission meeting only if changes were made and resubmitted to the Town by November 21, 2007. The project was not resubmitted in a timely manner; therefore, at the December 5<sup>th</sup> meeting, the project was continued to the January 16, 2008 Planning Commission meeting.

Staff met again with the applicants on December 19, 2007 to review the status of the project and re-submittal timelines for the 2008 General Plan Amendments. At the December 19<sup>th</sup> meeting, the applicants stated they agreed with some of the minor corrections and changes to the Specific Plan, but the park areas and lot sizes would not be increased, both of which were recommended by staff and the Planning Commission. Staff indicated that, if the project was not modified as recommended by staff and as directed by the Planning Commission, the application would go forward with a staff recommendation of denial. The applicant agreed to move forward with the project, with the understanding that staff would be recommending denial. Mr. DeFazio met with the Town Manager on January 9, 2008 to discuss issues regarding the Specific Plan and resubmitting the modified Specific Plan. Mr. DeFazio was granted an extended deadline date to resubmit the Specific Plan, which was received on January 10, 2008.

The following list includes notes on the agreed upon changes by the applicant at the October 29, 2007 meeting with staff; however, a revised Specific Plan reflecting all of the changes, was not submitted to the Planning Division. The changes are underlined and the deleted information is shown with ~~strikeout~~.

Recommended Modifications to Specific Plan:

1. Reduce the length of River Vista Road (cul-de-sac) and combine lots on the southeast portion to create one (1) or two (2) larger parks of one (1) acre minimum size with better and more functional amenities for all the Deep Creek residents. (Note: The Planning Commission and Town Council need to determine the larger park areas). The two (2) parks will contain benches and will be fully landscaped including tree shading (*The applicant is not in agreement with this item*).
2. Reduce the impact of the sound attenuation wall (Tussing Ranch Road) with enhanced wall design and materials. Including texture, detailing and changes in wall heights and extensive landscaping (*The applicant is in agreement with this item, but it is not shown in the Specific Plan*).
3. Exhibit 4-5 shows the conceptual Wall & Fence Plan, but contains incorrect heights for the walls along Tussing Ranch and Deep Creek Roads. The applicant submitted a Perimeter Wall/Fence Exhibit at the December 19<sup>th</sup> meeting with staff, but the exhibit does not reflect enhanced wall design and other recommended details.
4. Landscaped areas:
  - a. Parkway street trees shall be a minimum of 24-inch box container size.
  - b. Street trees outside perimeter walls shall be a minimum of 24-inch boxed sized trees. Additional perimeter wall trees shall be a combination of 24-inch box and 15-gallon sizes trees.
  - c. Entrance trees shall be a combination of 24-inch, 36-inch and 48-inch box container size.
  - d. All landscaped areas shall be planted with sufficient 5-gallon shrubs and 1-gallon and smaller ground covers to create ~~thick~~ landscaping in accordance with the Town's Landscape Ordinance. Shrubs and ground covers shall be emphasized outside perimeter walls and at project entry points.

~~Dense~~ Drought tolerant landscaping, per the Town's Landscape Ordinance shall be emphasized outside the perimeter walls, at project entry points along the meandering trail/pedestrian paths and other highly visible landscaped common areas. All landscape area plant type, size and spacing shall be determined by the Director of Economic and Community Development (*The applicant is in agreement with this item and it is generally depicted as Exhibit 5-2A and -2B*).

5. All sidewalks should be six (6) feet wide, except Tussing Ranch Road, which shall be in conformance with the General Plan Circulation Element (*The applicant is in agreement with this item and is shown on the TTM and Exhibit 5-2*).
6. The retention basin (Exhibit No. 6-1B - Lot "B") will be ~~densely~~ planted with native plantings in groups of three (3) and five (5) in accordance with the Town's Landscape Ordinance. The slopes and bottom of the basin will be hydroseeded with native grasses and other native ground covers (*The applicant is in agreement with this item, but it is not shown in the Specific Plan*).



7. Require that the Joshua Tree maintenance and monitoring program specify which Joshua Trees will be preserved in the project area in accordance with the site's Joshua preservation survey (*The applicant is in agreement with this item, briefly explained in 4.4.1 and 7.5.3, but it is not sufficiently detailed in the Specific Plan*).
8. The Homeowner's Association (HOA) shall be created to fund and manage a high level of maintenance, at all times, of the landscaping, structures and other facilities it is responsible for (*The applicant is in agreement with this item, depicted in Exhibit 7-2, but it is not thoroughly described in the Specific Plan*).
9. Redesign the Drainage Easement/Recreation Trail channel to create a more natural look by including greater landscaping with sufficient trees and shrubs to create a fully landscaped channel and use creative grading and rocks to both create a more natural look and to slow storm water runoff. This will be subject to the final drainage plan, as approved by the Town Engineer (*The applicant is in agreement with this item but, it is not shown in the Specific Plan*).
10. Redesign the "Open Space Easement – No Structures" area to include the residual property shown on the rear/side of Lot Nos. 24 to 36 (*The applicant is in agreement with this item, and it is shown on revised TTM and Exhibit 4-3*).
11. On Exhibit No. 7-1, the Phasing Plan should be numbered with appropriate phase numbers. Staff recommends that on Page 7-6, the paragraph under "Phase – Neighborhood Equestrian Area" should be deleted. The improvements on River Vista Road are required under Planning and Engineering Conditions of Approval with TTM No. 16922 (*The applicant is in agreement with this item and submitted a revised phasing plan, Exhibit 7-1, at the 10/17/07 PC meeting*).
12. Revise the development standards to not allow the further division of the perimeter one (1)-acre minimum buffer lots (*added by PC at 10/17/07 meeting but it is not reflected in the Specific Plan development standards*).

At the January 16, 2008 Planning Commission meeting, staff recommended denial of the GPA, ZC, Specific Plan and Tentative Tract Map No. 16922 request, as the Specific Plan was not submitted to the Town with the modifications as recommended by staff and the Planning Commission's comments made at the October 17<sup>th</sup> meeting. The Specific Plan does not conform to the Town's Development Code relating to Specific Plans. The Specific Plan and Tentative Tract Map do not provide appropriate design standards, setbacks and landscaping in order to buffer the proposed development from the surrounding existing and anticipated rural residential neighborhoods. The proposed project is not consistent with, and complementary to, an integrated, internally consistent and compatible statement of policies for the Town's General Plan. The overall amenity package that is offered is insufficient and the project appears to be a typical subdivision. In addition to increasing park sizes and associated amenities, the Commission requested that the project provide a minimum lot size of one (1)-acre for the project, which the applicant has stated his unwillingness to make this change and requested that the project go forward to the Town Council as submitted.

At the January 16<sup>th</sup> meeting, Chairman Hernandez and Commissioner Putko stated they agreed with the staff recommendation for denial. Vice-Chairman Tinsley commented the applicant had alleviated some of his concerns. He felt the project would benefit the area by having a park and by alleviating traffic issues on Deep Creek Road. Commissioner Allen stated there were a number of changes to the project and the transition between half (1/2)-acre lots and the larger

lots was reasonable. Commissioner Allen commended the applicant on his changes and was in favor of the applicant marketing the property as a lot-sale program.

### **Analysis:**

Specific plans are authorized by State Government Code Sections 65450-65457 and the Town's Development Code Chapter 9.03 Specific Plan. The Town's General Plan also authorizes and provides specific plan policy direction on the appropriateness of Town Specific Plans as follows:

*"The General Plan provides for the adoption of specific plans in the Community Reserve land use areas as well as other areas where remoteness, environmental constraints or unique land use concerns require specific land use and/or design controls. All specific plans shall be consistent with the provisions of the adopted General Plan. Any proposed specific plan, which is not consistent with the existing adopted General Plan designation, may only be adopted concurrent with the adoption of the appropriate amendments to the General Plan necessary to maintain consistency."*

Specific plans effectively establish a link between implementing policies of the Town's General Plan and the individual development proposals in a defined area. A Specific Plan establishes the planning concepts, design and development guidelines and administrative procedures to carry out development of the Specific Plan area. Specific Plans involve comprehensive site planning, including sensitive integration of open space and development areas. Infrastructure planning and creative design approaches are also emphasized. Typically, developers are provided flexibility to respond to market changes and communities gain higher quality development.

In accordance with Town Council policy, each GPA and ZC application is reviewed on a case-by-case basis in connection with consideration of a specific project accompanying the application. A specific plan works in connection with the zoning ordinance (Town's Development Code), although it provides complementary design and development guidelines and zoning-related requirements based on the specific plan's design concepts. Zoning usually is relied upon for parking and height restrictions; whereas, the specific plan provides standards for streetscapes, architecture and other design-oriented matters. Specific plans are required to have higher design standards and special features over and above those normally required by the Development Code.

The Deep Creek Estates Specific Plan proposed land use designations are Single-Family Residential (R-SF) one-half (1/2)-acre lots, Equestrian Residential (R-EQ) from 18,000 – 57,665 square foot lots with an average of 27,683 square feet and 13.5 acres of Open Space (O-S). TTM No. 16922 shows one (1) gross acre lot sizes, located on the north, south and east boundaries adjacent to Multiple-Use Lifeline Trails on Deep Creek and Tussing Ranch Roads. Transitional density buffers, consisting of larger lot sizes, should be provided at the periphery of new residential subdivisions to create a density transition between the new subdivision and adjacent residential land uses of lesser density. The proposed Tentative Tract Map shows one (1) gross acre lots along Tussing Ranch, Deep Creek and Wren Roads; however, the lots were measured by the applicant from the centerline of existing dedicated roadways, shown on the Assessor's Map with forty (40)-foot road dedications. Pursuant to the Code, gross acres are determined by measuring from the centerline of undedicated roads. If the roadway is currently

dedicated, the gross acre calculation is equivalent to net acres. In this case, several lots are calculated to the centerline of dedicated roadways and, therefore, may be less than one (1)-acre gross lot size. The subdivision also shows one-half (½)-acre lots adjacent to Jess Ranch PUD to the northwest and to the southwest, which has a zoning designation of R-A, Residential Agriculture (1 dwelling unit per 2.5 to 5.0 acres). The lots shown on TTM No. 16922, adjacent to R-A zoning, should be increased in size to create a transition from the adjacent property that is of a lesser density.

The eighty (80)-acre project's General Plan land use designation is currently Residential Low Density (R-LD), which includes the approximately ten (10)-acre drainage easement that bisects the property from the southeast to the northwest corner. Therefore, the site, under the present zone designation, may be subdivided into approximately thirty-two (32), 2.5-acre single-family residential lots. This, however, is unlikely given the site's topography and low demand for 2.5-acre home sites.

Specific Plans, typically, include significant parks, open space and other amenities. This may include requiring park sites that are greater in size than the dedication required by the Development Code. Deep Creek Estates incorporates two (2) neighborhood parks. A private park is located in the equestrian portion of the community and encompasses 41,911 square feet. The second neighborhood park is located along Sierra Vista Drive and totals 28,271 square feet. It is for private use of all residents of Deep Creek Estates and includes the following amenities:

- Eating area with 2 park benches
- 20' by 20' shading device
- Minor landscaping with native desert oriented and drought resistant
- Detention area with river rock set in concrete
- An area that will also be a "Stormwater Retention Area" and a "Joshua Tree Relocation Area".

In order to approve the proposed Deep Creek Estates Specific Plan, the Town's General Plan and Development Code require Deep Creek Estates to meet Specific Plan special design features and an amenity package requirement to create a unique and special place. These design requirements should significantly exceed normal standard Development Code requirements. This is particularly the case for Deep Creek Estates, because the project occupies a site of unique scenic beauty, rural quality and is setting the standard and precedent for the Deep Creek corridor's future development. The objective is to make Deep Creek Estates a unique residential community in harmony with the desert, instead of it being presented as just another large, non-distinctive subdivision. Special amenities and high quality design require both creativity and additional costs, although this is off-set by the value added to the project. The amenities are in exchange for the ability to develop under a Specific Plan and, in this case, build at a density of (two) 2 units to the acre, rather than the underlying zoning of one (1) unit per 2.5 to 5.0-acres.

Deep Creek Estates is adjacent to Multiple-Use Lifeline Trails along Deep Creek and Tussing Ranch Roads and installation of these trails would be required with development of a typical subdivision. If the property were subdivided and maintained a zoning designation to allow equestrian uses, local interior streets would also be required to provide trails in accordance with the Multiple-Use Recreation Trail standards. The site consists of an approximately ten (10)-acre drainage easement that bisects the property from the southeast to the northwest corner. A

typical subdivision would be required to install drainage improvements and maintain a natural appearance of the drainage easement, with approval of a final drainage plan. However, Deep Creek Estates is proposing two (2) parks that may not otherwise be provided with development of a typical eighty-seven (87) lot subdivision. In either situation, Quimby fees would be collected in accordance with the Town's ordinance. It is important to note that the Deep Creek Estates Specific Plan does not exceed normal standard Development Code requirements other than the two (2) park sites as proposed.

The applicant, Mr. DeFazio, stated at the January 16<sup>th</sup> meeting, that he had designed two (2) parks for the project and has four and one-half (4-½) acres of equestrian trails, including interior trails. He also stated he agreed to eighty-three (83) lots instead of eighty-seven (87) lots. Although, Mr. Defazio stated he would agree to an eighty-three (83) lot subdivision instead of the original eighty-seven (87) lots, which was presented to the Commission at the January 16<sup>th</sup> meeting, a revised TTM, reflecting eighty-three (83) lots was not submitted to the Planning Division for review and distribution.

Mr. DeFazio also stated that the project is adjacent to the Jess Ranch Specific Plan and the Cooper Home and that the equestrian trails would be an asset to the community. The TTM shows five (5) lots adjacent to the Jess Ranch Specific Plan and eight (8) lots adjacent to Cooper Home property. The Cooper Home is currently operating as a large residential care facility, located on a portion of the forty (40)-acre parcel, at the southwest boundary of the Deep Creek Estates Specific Plan site. The property is within the R-LD land use designation and the R-A zoning designation. In accordance with the Planning Commission's direction, the lots along this southwest boundary should be increased in size as a transitional density buffer. Tentative Tract Map No. 16922 shows lots along this southwestern boundary with 18,000 to 24,474 square foot lot sizes.

The Council amended the Development Code to require tracts of single-family residential dwellings to front on local streets and that subdivisions adjacent to local road rights-of-way should not have perimeter walls adjacent to local road rights-of-way. This amendment only allows perimeter walls on major and secondary roads. Walls and fencing are prominent visual elements of a community and special attention is necessary to achieve a community character that complements the natural open spaces and existing neighborhoods adjacent to Solera (Jess Ranch). Solid walls will be utilized at rear, side and corner lots for screening and/or noise mitigation, where necessary, and have a maximum height of six (6) feet except for noise attenuation areas. The applicant provided an acoustical analysis that identifies exterior and interior noise exposure and the necessary mitigation measures. Among the mitigation measures is the requirement for a six (6)-foot six (6)-inch high sound barrier along Tussing Ranch Road and a minimum five (5)-foot high sound barrier along Deep Creek Road. Deep Creek Road is an established truck route within the Town and it can be expected that this roadway will be well-traveled. Therefore, it should not be possible to front the homes onto Tussing Ranch Road or Deep Creek Road.

To an extent, the range of critical elements contained in a specific plan is left to the discretion of the decision-making body. However, all specific plans, must comply with Sections 65450 - 65457 of the Government Code which require that a specific plan be consistent with the adopted general plan of the jurisdiction within which it is located. The specific plan represents a good tool for developing a community's "sense of place." A creative and innovative specific plan may bridge-the-gap between monotonous urban development and a livable neighborhood. Specific plans should also ensure orderly and thorough planning and review procedures that will result in quality urban design; encourage variety and avoid monotony in developments by

allowing greater freedom in selecting the means to provide access, light, open space, and amenities; encourage allocation and improvement of common open space in residential areas, and provide for maintenance of the open space at the expense of those directly benefiting from it; and encourage the assembly of properties that might otherwise be developed in unrelated increments to the detriment of surrounding neighborhoods. The Deep Creek Estates Specific Plan is presented without the modifications recommended by staff and as directed by the Planning Commission at its October 17, 2007 meeting and does not conform to the Code's Specific Plan requirements.

### **Summary:**

The Specific Plan as submitted is not consistent with, and complementary to, an integrated, internally consistent and compatible statement of policies for the Town's General Plan. The subject property is suitable for development and the single-family land use is compatible with the surrounding low density residential neighborhoods as proposed. However, the Specific Plan, as proposed, is not complimentary to the area and provides no uniqueness to the area that could not be otherwise achieved through a tract map. The only amenity that differs from a typical tract map is the addition of two (2) proposed parks, which staff finds to be insufficient in size. The proposed Specific Plan and Tentative Tract Map lack details necessary to assure the project meets the development standards envisioned for this area. The overall amenity package that is offered is insufficient and, rather than a viable Specific Plan application, the project appears to be a typical subdivision. In addition to increasing park size and associated amenities, the Commission requested that the project provide a minimum lot size of one (1)-acre for the project.

Although, at its meeting of January 16, 2008, the Planning Commission voted 2-2 on a motion to approve the project, a majority of three (3) votes is required for approval of a General Plan Amendment, Zone Change or Specific Plan. A 2-2 vote results in a denial of the subject applications. As a result, Planning Commission Resolution No. 2007-028 recommends denial of General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan 2004-002 and Tentative Tract Map No. 16922, forwarding a recommendation that the Town Council find that the proposed General Plan Amendment, Zone Change, Specific Plan and Tentative Tract Map are inconsistent with the Goals and Policies of the Town of Apple Valley adopted General Plan and cannot support the required positive findings for approval and recommends denial of Specific Plan No. 2004-002 on Assessor Parcel Numbers 0434-201-14 and -48.

### **Attachments:**

1. Draft Town Council Resolution No. 2008-\_\_\_\_ for denial
2. Planning Commission Resolution No. 2007-028
3. Recommended Modifications of Specific Plan
4. Planning Commission staff reports for October 17, 2007 and January 16, 2008.
5. TTM No. 16922 Conditions of Approval.
6. Planning Commission Minute Excerpts for October 17, 2007 and January 16, 2008.

Deep Creek Estates Specific Plan (separate handout)  
Tentative Tract Map No. 16922 (full size map)



## TOWN OF APPLE VALLEY PLANNING COMMISSION

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### STAFF REPORT

- AGENDA DATE:** May 21, 2008
- CASE NUMBER:** General Plan Amendment/Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922
- APPLICANT:** Altec Engineering, Corp
- PROPOSAL:** This is a request for approval of a General Plan Amendment to change the current Land Use designation of Residential Low Density (R-LD, 1 dwelling unit per 2.5 to 5.0 gross acres) to Specific Plan (S-P) and a Zone Change from the current Residential Agriculture (R-A, 1 dwelling unit per 2.5 to 5.0 gross acres) Zoning designation to Specific Plan (S-P) Zoning designation. Assuming approval of GPA/ZNC No. 2004-002, the applicant has requested to subdivide the total eighty (80) gross acre site, under Tentative Tract Map No. 16922, into eighty-seven (87) single-family lots. All lots are single-family residential and will range from 18,000 to 48,348 square feet in size and includes a 1.98 acre park site.
- LOCATION:** The approximately eighty (80)-acre project area is located at the northwest corner of Deep Creek and Tussing Ranch Roads; APNs 0434-201-14 and -48.
- ENVIRONMENTAL DETERMINATION:** Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA) a Mitigated Negative Declaration has been prepared.
- CASE PLANNER:** Ms. Becky Reynolds, Principal Planner
- RECOMMENDATION:** The Town Council remanded the project back to the Planning Commission with the recommended Specific Plan modifications for approval.

A. Background

The Planning Commission conducted two (2) public hearings (October 17, 2007 and January 16, 2008) to review and take testimony on General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract map 16922. At the January 16<sup>th</sup> meeting, following the public hearing and discussion, the Planning Commission considered a motion to approve the project. The motion failed on a 2 to 2 vote, with one (1) Commission member recused from the dais as a result of a stated conflict of interest. Pursuant to State law, a majority vote of the Commission (3 votes) is required for approval of a General Plan Amendment (GPA), Zone Change (ZC) or Specific Plan (SP) and the 2-2 vote is, therefore, technically determined as a denial of the project. The project was forwarded to the Town Council with a recommendation of denial.

The project was reviewed by the Town Council at its meeting held on April 22, 2008. Following review of the information within the staff report, public input and discussion among the Council, the Council took action remanding the Specific Plan back to the Planning Commission for its review. The Council's action stipulates required modifications to the Specific Plan. The applicant submitted the modified Specific Plan to the Planning Division on April 29, 2008. The Council's direction to the Planning Commission is to review these modifications to verify that they have been completed and, if completed, approve GPA/ZC/SP 2004-002 and Tentative Tract Map No. 16922 with the recommended Conditions of Approval.

Recommended Modifications to the Specific Plan, and noted adherence to each item, are shown as follows:

3. Combine lots to create one (1) larger park of two (2)-acre minimum size with better and more functional amenities for all the Deep Creek residents. *(Note: At the 4/22/08 Town Council meeting, the Town Council determined that one (1) large park of approximately two (2) acres in size shall be developed and is shown as Lot "A" on the TTM).*
4. Reduce the impact of the sound attenuation wall (Tussing Ranch Road) with enhanced wall design and materials. Including texture, detailing and changes in wall heights and extensive landscaping *(Exhibit 4-5a shows the conceptual Wall & Fence Plan, for the walls along Tussing Ranch and Deep Creek Roads).*
3. Landscaped areas:
  - a. Parkway street trees shall be a minimum of 24-inch box container size.
  - b. Street trees outside perimeter walls shall be a minimum of 24-inch boxed sized trees. Additional perimeter wall trees shall be a combination of 24-inch box and 15-gallon sizes trees.
  - c. Entrance trees shall be a combination of 24-inch, 36-inch and 48-inch box container size.
  - d. All landscaped areas shall be planted with sufficient 5-gallon shrubs and 1-gallon and smaller ground covers to create landscaping in accordance with the Town's Landscape Ordinance. Shrubs and ground covers shall be emphasized outside perimeter walls and at project entry points.

Drought-tolerant landscaping, per the Town's Landscape Ordinance, shall be emphasized outside the perimeter walls at project entry points along the meandering trail/pedestrian paths and other highly visible landscaped common areas. All landscape area plant type,

size and spacing shall be determined by the Director of Economic and Community Development (*generally depicted as Exhibits 4-4, 5-2A and -2B and described in Section 4.4*).

12. All sidewalks shall be six (6) feet wide, except Tussing Ranch Road, which shall be in conformance with the General Plan Circulation Element (*shown on the TTM and Exhibit 5-2*).
13. The retention basin (Exhibit No. 6-4 northwest portion of Lot "B") will be planted with native plantings in groups of three (3) and five (5) in accordance with the Town's Landscape Ordinance. The slopes and bottom of the basin will be hydroseeded with native grasses and other native ground covers (*Shown in the Specific Plan as a retention basin depicted on Exhibit Nos. 4-7, 4-8, and 6-4 Stormwater Retention Basin Plan*).
14. Require that the Joshua Tree maintenance and monitoring program specify which Joshua Trees will be preserved in the project area in accordance with the site's Joshua preservation survey (*relocation depicted on Exhibit 4-7; language expanded in Sections 4.4.1, 4.5.2 and 7.5.3*).
15. The Homeowner's Association (HOA) shall be created to fund and manage a high level of maintenance, at all times, of the landscaping, structures and other facilities it is responsible for (*depicted in Exhibit 7-2 and further described in Section 7.5.1 in the Specific Plan*).
16. Redesign the Drainage Easement/Recreation Trail Channel to create a more natural look by including greater landscaping with sufficient trees and shrubs to create a fully landscaped channel and use of creative grading and rocks to both create a more natural look and to slow storm water runoff. This will be subject to the final drainage plan, as approved by the Town Engineer (*Exhibit Nos. 4-7 and 4-8*).
17. Redesign the "Open Space Easement – No Structures" area to include the residual property shown on the rear/side of Lot Nos. 24 to 36 (*shown on revised TTM and Exhibit 4-3*).
18. On Exhibit No. 7-1, the Phasing Plan should be numbered with appropriate phase numbers. Staff recommends that on Page 7-6, the paragraph under "Phase – Neighborhood Equestrian Area" should be deleted. The improvements on River Vista Road are required under Planning and Engineering Conditions of Approval with TTM No. 16922 (*Shown on revised Exhibit 7-1*).
19. Revise the development standards to prohibit further division of the perimeter one (1) - acre minimum buffer lots (*added by PC at 10/17/07 meeting and described in Section 4.3 Residential Development Standards*).

The applicant has prepared the Specific Plan with the recommended modifications as directed by the Town Council. Many of the above noted items affect the TTM; therefore, staff is providing the details of these changes and a brief summary of the Specific Plan. The previous two (2) Staff Reports from the Planning Commission meetings and the Staff Report from the April 22, 2008 Town Council meeting are attached for reference to the Commission.

## PROJECT AND SITE DESCRIPTION

### B. Proposed Project and Location

The applicant is requesting a General Plan Amendment and Zone Change No. 2004-002 from Residential Low Density (R-LD, one (1) dwelling per 2.5 to 5.0 acres) to Specific Plan (S-P) in order that the Deep Creek Estates Specific Plan conforms to the Town's General Plan and Zoning Map. The existing zoning will allow approximately thirty-two (32) dwelling units (80 acres



divided by 2.5 acres) and eighty-seven (87) dwelling units are proposed for this property under TTM No. 16922, which is an increase in overall density. In accordance with the Town's General Plan Policy No. LU 6.2, in order to increase the density of property within the Deep Creek area, a Specific Plan is required.

The project site consists of two (2) separate forty (40)-acre parcels. This proposal will accommodate a maximum of eighty-seven (87) single-family lots consisting of one-half (½)-acre lots and one (1)-acre lots. The applicant's modified Specific Plan is enclosed separately in the Planning Commission agenda packet. (Note: exhibit references such as Exhibit 3-1 refer to exhibits in the Specific Plan).

The Deep Creek Estates Specific Plan proposed land use designations are Single-Family Residential (R-SF) one-half (1/2)-acre lots, Equestrian Residential (R-EQ) from 18,000 – 48,348 square foot lots with an average of 27,684 square feet and 18.19 acres of Open Space (O-S) consisting of equestrian trails, Drainage Lot "B" and Lot "A" shown as the park site.

#### C. General Plan Designations

Project Site - Residential Low Density (R-LD)

Proposed - Specific Plan (S-P)

North - Residential Low Density (R-LD)

South - San Bernardino County AG-SCP (Town Sphere of Influence)

East - Residential Low Density (R-LD)

West - Residential Low Density and Jess Ranch Planned Unit Development

#### D. Surrounding Zoning and Land Use

Project Site – Residential Agriculture (R-A); Vacant

Proposed - Specific Plan (S-P)

North – Residential Agriculture (R-A); Vacant

South – San Bernardino County AG-SCP (Town Sphere of Influence), Scattered Single-Family residences

East – Residential Low Density (R-LD), Vacant

West – Residential Low Density (R-LD) and Jess Ranch Specific Plan (S-P), Single Family Residential residences and Cooper Home

### **ANALYSIS:**

The re-submittal of the Specific Plan includes the required modifications which are provided below with corresponding information to evaluate each specific item. The referenced exhibits have been added or changed from previous SP exhibits as a result of the SP modifications.

#### Park Site

Item No. 1 of the recommended SP modifications and as directed by the Town Council, is to increase the park site to approximately 80,000 square feet in size. The applicant modified the Specific Plan to include a larger park area (Lot "A") to 86,248 square feet in size (Exhibit No. 6-1A). This equestrian-oriented Neighborhood Park will be located between River Vista Road and Deep Creek Road, which will be for use by residents of "Deep Creek Estates" and the general public. This larger park area includes equestrian oriented amenities for all the Deep Creek Estates residents. Although the park site has increased in size, the applicant has chosen to modify the park by adding a parking lot to accommodate vehicles and horse trailers. Driveway access is taken from Marmoset Street, as shown on Exhibit No. 6-1A. Staff recommends

completion of the park (Lot "A") concurrent with the improvements to River Vista Road in Phase No. 2 (Condition No. 34).

The Recreational/Equestrian park area proposes the following amenities:

- Eating area with two (2) park benches
- 20' by 20' shading device
- Horseshoe pits
- Equestrian show ring and hitching post
- Parking lot with vehicle and horse trailer parking stalls
- Landscaping with native desert oriented and drought resistant
- Native vegetated detention area and Joshua Tree relocation area

The amenities are in exchange for the ability to develop under a Specific Plan and, in this case, build at a density of (two) 2 units to the acre, rather than the underlying zoning of one (1) unit per 2.5-acres.

### Perimeter Walls

Item No. 2 of the required SP modifications is to reduce the impact of the sound attenuation wall (Tussing Ranch Road) with enhanced wall design and materials. Including texture, detailing and changes in wall heights and extensive landscaping. The applicant has included Exhibit 4-5a that shows the conceptual Wall & Fence Plan for the walls along Tussing Ranch and Deep Creek Roads. The wall heights for noise attenuation may be decreased with the inclusion of landscaped berms, but will maintain the overall height from grade to conform to the noise mitigation measure of six (6) feet six (6) inches. In accordance with the required cross-section for a Major Divided Arterial, the applicant will be required to provide a fourteen (14)-foot wide landscape easement along Tussing Ranch Road in addition to the sound attenuation wall (Condition No. P10).

Only open rail fencing with a maximum height of forty-eight (48") shall be permitted in the front yard areas and no solid fencing shall be allowed on slopes greater than fifteen percent (15%) (refer to Exhibit No. 4-5) the Conceptual Perimeter Wall and Fence Plan.

### Landscaping

Item No. 3 of the required SP modifications is to incorporate drought tolerant landscaping, per the Town's Landscape Ordinance with emphasis on the outside the perimeter walls, at project entry points along the meandering trail/pedestrian paths and other highly visible landscaped common areas. The applicant has included this in Exhibit Nos. 4-4, 5-2A.

The applicant revised the SP to include the Town's recent adopted Landscape Ordinance and Plant Material List. Landscaping is proposed with a mix of drought-tolerant plants (combination of California native, desert species, and other drought-tolerant plant species) that provide ground cover for parkways and street trees helping define the neighborhoods. Due to the smaller size of this particular Specific Plan, there are no designated landscape palettes for each of the Single-Family or Equestrian Residential neighborhoods. The only specific design constraint in the neighborhoods is to have a maximum of 450 square feet of grass area in the front yard areas of each home.

### Circulation

Item No. 4 of the required modifications, is to show all sidewalks at six (6) feet wide, except Tussing Ranch Road, which shall be in conformance with the General Plan Circulation Element which is shown on the TTM and Exhibit No. 5-2.

The circulation system for the Specific Plan Area provides multi-modal access, serving vehicles, pedestrians, and equestrians. The components of the Circulation Plan are designed to provide safe and efficient access to the future residential neighborhoods, natural open space or improved drainage channel and the equestrian area. Exhibit No. 5-1, "Conceptual Circulation Plan," shows the location of Specific Plan Area streets. All street and roadway design plans will adhere to the required Town standards at all intersections and driveways.

Vehicular circulation to the project site will be from Tussing Ranch Road along the south, Wren Street from the north and Deep Creek Road from the east. Deep Creek Road will provide primary access into Deep Creek Estates community from Bear Valley Road from the north and Rock Springs Road to the south. Deep Creek and Wren Roads are currently improved, but will be required to provide half-street rights-of-way, curb, gutter and sidewalks for the site. Additionally, Tussing Ranch Road which is currently unimproved will also be required to provide half-street rights-of-way, curb, gutter and sidewalks for the southerly boundary.

#### Drainage

Item No. 5 of the required SP modifications is to require that the retention basin (Exhibit No. 6-4 north portion of Lot "B") to be planted with native plantings in groups of three (3) and five (5) in accordance with the Town's Landscape Ordinance. The slopes and bottom of the basin will be hydroseeded with native grasses and other native ground covers. The applicant includes this on Exhibit No. 4-7 (Conceptual Drainage & Recreation Trail).

Item No. 8 of the required SP modifications is to redesign the Drainage Easement/Recreation Trail Channel to create a more natural look by including greater landscaping with sufficient trees and shrubs to create a fully landscaped channel and use of creative grading and rocks to both create a more natural look and to slow storm water runoff. Because of the Town's desire to integrate natural washes and desert natural land forms and vegetation into new development projects, the proposed drainage channel and trail shown on the TTM will be graded and have a more natural appearance with adjacent areas to the wash and will be planted with additional native type plant plantings based upon the Town Engineer's determination of the final drainage study (Exhibit Nos. 4-7 and 4-8).

The project's on-site storm waters will ultimately drain to the northwest corner of the site and the proposed residential development will direct storm water via curb and gutters from the developed portion of the site to the natural drainage course and will meet the hydrology criteria as approved by the Town Engineer. Tentative Tract Map No.16922 shows the off-site natural drainage course and on-site streets that will direct storm waters to the "Drainage & Recreation Trail Easement" area. This project will meet the Town of Apple Valley criteria as approved by the Town Engineer.

#### Joshua Trees

Item No.6 of the required SP modifications is to require that the Joshua Tree maintenance and monitoring program specify which Joshua Trees will be preserved in the project area in accordance with the site's Joshua preservation survey. The applicant has expanded the language in Section Nos. 4.4.1, 4.5.2 and 7.5.3 in the SP to address this modification. Candidate Joshua Trees for relocation shall follow the intent of the Native Plant Ordinance of the Town of Apple Valley's Development Code. Mass grading will be required for Phase No. 3 and Phase No. 4 due to the intersection and drainage improvements with many of the existing

on-site candidate Joshua Trees will be relocated to the Open Space Easement area (Exhibit No. 4-7).

#### Home Owner Association (HOA)

Item No.7 of the required SP modifications is to expand the language in regard to the Homeowner's Association (HOA), which shall be created to fund and manage a high level of maintenance, at all times, of the landscaping, structures and other facilities it is responsible for. This is depicted in Exhibit No. 7-2 and is further described in Section 7.5.1 in the Specific Plan.

All common areas, as called out with a concurrent Tentative Tract Map, shall be maintained by the HOA. The HOA will be formed to provide for the maintenance of:

- Equestrian Park (Lot "A") and equestrian facilities and other landscaping, irrigation and improvements in common areas.
- Drainage and Recreation facilities (Lot "B") that may include surface drains, detention/retention basins, debris basins, storm water pollution control devices and other appurtenance structures;
- Lifeline Trails along Deep Creek and Tussing Ranch Roads, Multi-Use Trails fencing and directional way finding markers as delineated on the TTM;
- Slope areas not located within individual lots;
- Street lighting within the SP boundaries;
- Parkways and median(s);

The establishment of CC&Rs will identify the duties and costs associated with short and long-term maintenance and operation of street parkways, common areas and facilities within and adjacent to the subject development. The TTM Condition of Approval Nos. P22 and P23 are recommended to address this requirement.

Item No. 9 of the required SP modifications is to include the residual property of each lot within the easement area, which would eliminate any potential confusion on the use of those small areas. The applicant revised the TTM to show the "Open Space Easement - No Structures" area with residual property on the rear of Lot Nos. 23 to 36 and is also depicted on Exhibit No. 4-3.

#### Phasing Plan

Item No.10 of the required SP modifications is to correct the Phasing Plan. The improvements on River Vista Road are required under Planning and Engineering Conditions of Approval with TTM No. 16922 and are shown on revised Exhibit 7-1. The Deep Creek Estates Phasing Program is described in Section 2.4.7 and Section 7.3 Phasing Concept. Subsequent to the April 22<sup>nd</sup> Town Council meeting, the applicant added an additional phase to the Specific Plan, which was originally three (3) phases to a total of four (4) phases.

Due to the existing road improvements, changes in topography and other site constraints, the four (4) phase's are as follows:

- Phase 1 - R-EQ one (1) acre lots along the northern boundary (Lots 1-7).
- Phase 2- R-EQ lots (Lot Nos. 8-22 and 30-42) and Lot “A” park site.
- Phase 3 - The remainder of the southerly R-EQ Lots (Lots 23-29).
- Phase 4 - R-SF lots (Lots 43-87).

Phase No. 1 consists of one (1) acre lots adjacent to the northern boundary of the R-EQ land use designation adjacent to Wren Road. This phase supports the Residential Equestrian Designation, which will begin the incremental development along an existing paved road with two-points of access (Wren and Deep Creek Roads), as required by the Town of Apple Valley and the Apple Valley Fire Protection District.

Phase No. 2 consists of Lot Nos. 8 through 22 and 30 through 42 and includes the Equestrian Park that also supports the Residential Equestrian Designation. This phase is approximately the northern half of the Deep Creek Road improvements and will include a north-bound left-turn pocket.

Phase No. 3 consists of Lot Nos. 23 through 29 and is the southerly portion of the Residential Equestrian Designation. This phase will include the southern half of the Deep Creek Road improvements and Deep Creek and Tussing Ranch Roads intersection which will be mass graded with the lowering of the Deep Creek Road and Tussing Ranch Road intersection, as required by the Town Engineer.

Phase No. 4 consists of all of the R-SF lots (Lot Nos. 43 through 87). This phase supports the Single-Family Designation and will complete the development from the adjacent neighborhood to the west (Solera) and will require the “Drainage and Recreational Trail Easement” improvements along the boundary of Phase 2 and the remaining Tussing Ranch Road improvements.

Multi-Use and Equestrian Lifeline Trails within street right-of-ways shall be constructed concurrent with the complete build-out of the adjacent street and parkway improvements of each subject street, per the Conceptual Trail System Plan (Exhibit No. 5-3) and Phasing Plan (Exhibit No. 7-1). Improvements may include additional split rail fencing for horse training and/or horse showing (Condition No. P32).

#### Land use and residential density

Item No. 11 of the required SP modifications is to prohibit the further division of the one (1)-acre buffer lots along Wren Road, Deep Creek Road and Tussing Ranch Road. The applicant has included this under Section 4.3 Residential Development Standards.

#### Wastewater Collection and Treatment

The SP that was presented at the October 17, 2007 Planning Commission meeting showed sewer connection for all the lots within the subdivision. However, the applicant modified the Conceptual Wastewater Plan (Exhibit No. 6-3), which shows the sewer line connection for all of the eighty-seven (87) lots except the one (1)-acre lots along Wren Road (Lot Nos. 1-7), which are proposed for subsurface disposal system (septic). These lots, if connected to sewer, would require removal and reconstruction of Wren Road.

This subdivision is proposed with a total of eighty-seven (87) lots; forty-five (45) proposed lots at 18,000 square feet minimum and forty-two (42) proposed lots ranging in size from 27,007 to 48,348 square feet in size. Tentative Tract Map No. 16922 is a phased map creating lot sizes of less than one (1) acre, which requires connection to the Town’s sewer system, in accordance

with the Town's Sewer Connection Policy. However, Phase No. 1 consists of seven (7) single-family lots with a minimum of one (1) gross acre, which technically, based on lot size, could allow a subsurface disposal (septic) system.

The Public Works Division is recommending modification of the original Conditions of Approval for TTM No. 16922 that required connection to the Town's public sewer system for all lots within the subdivision, and instead recommends that the first phase of the project, consisting of seven (7) lots, greater than one (1) acre in size, can be served by the use of septic disposal systems in conformance with Town guidelines, unless the Commission determines that the Town's Sewer Policy applies, at which point the applicant would be required to install sewer Improvements within a newly constructed roadway. If the Commission recommends that the extension of sewer lines is required along Wren Road, then a modification to Exhibit No. 6-3 and language changes to the SP document should be recommended to the Specific Plan document.

#### E. General Plan Consistency

An important assertion in the General Plan Land Use Element states:

“Apple Valley is primarily a community of homes, many of which are located on lots of approximately one-half acre or more. Maintenance of a rural lifestyle is an important concept. In Apple Valley “rural” means space – unscarred mountains and vistas of desert valleys, neighborhoods of large lots where keeping horses is allowed, an extensive equestrian trail system, and landscaping in keeping with the desert environment.”

The Town of Apple Valley General Plan authorizes and provides policy direction on the appropriateness of Town Specific Plans as follows:

- The Specific Plan area is located next to the developing Solera project (Specific Plan to the west), and proposed projects to the east (Tussing Ranch Estates). Development of the area will provide linkage from Solera to Deep Creek Road via Tussing Ranch Road, as well as improve an existing unsafe intersection. Further, its development will bring needed infrastructure such as water and sewer into the area for future developments.
- The Specific Plan area, along with adjoining properties protect and enhance community values by complying with the community's desire for minimum half (1/2)-acre single-family lots, as well as providing infrastructure needed for the area. In addition, the Specific Plan provides an equestrian development that is desired by a segment of the community.
- The Specific Plan area is already incorporated into the boundaries of the Town of Apple Valley.
- The development will provide adequate infrastructure facilities and services to support the proposed community in order to meet the needs of the requisite facilities and services. This includes sewer, water and roads.
- Infrastructure is located nearby and improvements will be made to facilities and services to support the proposed community in order to meet the needs of the requisite facilities and services. This includes sewer, water, and roads.
- This development relates to the desert environment by implementing xeriscape landscaping requirements, the use of water-conserving irrigation, and retention of the existing bluffs through grading for individual lots, rather than overall mass grading.
- The site was not previously used for agricultural uses.

- The development of this site includes the preparation of this Specific Plan. Properties to the northwest are already developed with single family homes; properties to the east are proposed for Equestrian Residential use under a separate proposed Specific Plan; properties to the north are not being utilized for agricultural uses; and, properties to the south are developed with scattered single family residences with and without equestrian uses. The rural character of the site is being maintained by implementation of equestrian residential lots and equestrian trails, as desired by a segment of the community. In addition, the site is compatible with potential adjacent agricultural uses due to its equestrian nature and installation of lifeline equestrian trails along Tussing Ranch and Deep Creek Roads which can be utilized by the community.
- The Specific Plan area is buffered from potential adjacent agricultural uses by the installation of lifeline equestrian trails, one (1)-acre sized lots, landscaping and sidewalks.
- The Specific Plan is not for commercial agricultural uses; therefore, no resources management is needed.

## **SUMMARY**

The Deep Creek Estates Specific Plan was presented to the Town Council on April 22, 2008 and the Council remanded the project back to the Planning Commission for their consideration for approval with the required Specific Plan modifications. The applicant submitted the Specific Plan that contains the required modifications. However, the applicant has also chosen to add a phase to the project; remove sewer connection from Lot Nos. 1 through 7 and add a driveway approach and parking lot to the Park (Lot "A"). The added phase to the original phasing plan and the added amenities to the park site will not significantly impact the overall project. The change to the conceptual Wastewater Plan (Exhibit No. 6-3), which shows no sewer connection for Lot Nos. 1 through 7, is a significant change to the project and may require further modifications to the SP document. The Commission should consider the Town's Sewer Connection Policy as it applies to the proposed subdivision (TTM No. 16922) and either recommend the Condition of Approval for a septic system for Lot Nos. 1 through 7 or recommend modifications, if necessary, to the Deep Creek Estates Specific Plan and to the TTM Finding that addresses sewer connection for the proposed subdivision.

## **ENVIRONMENTAL ASSESSMENT**

Based upon an Initial Study, pursuant to the Guidelines to implement the California Environmental Quality Act (CEQA), a proposed Mitigated Negative Declaration (MND) has been prepared for the applicant's project. The MND includes mitigation measures for both the requested General Plan Amendment/Zone Change, Specific Plan and Tentative Tract Map to reduce impacts to a less than significant level per the CEQA guidelines.

## NOTICING AND COMMENTS

General plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922 were advertised as a public hearing in the Apple Valley News newspaper on May 2, 2008 as required under Development Code Section 9.13.030 *Notice of Public Hearings*. Additionally, a sign is posted on the property as required under Development Code Section 9.13.030 (9).

## FINDINGS

In considering any General Plan Amendment or Zone Change, the Council and Commission are required by the Municipal Code to make specific Findings. The following are the Findings for a General Plan Amendment required under Section 9.02.050 H 3 of the Development Code, with a comment to address each:

### General Plan Amendment

1. The proposed General Plan amendment is consistent with the goals, policies and standards of all elements of the General Plan and will further those goals, policies and standards;

Comment: The proposed General Plan Amendment is consistent with, and furthers the Goals and Policies of, the General Plan Land use Element by promoting single-family residential development and demonstrates a logical extension of development.

2. The General Plan, as amended, will comprise an integrated, internally consistent and compatible statement of policies for the Town;

Comment: The proposed General Plan Amendment will be consistent with the Goals and Policies of both the Land Use Element and the Circulation Element of the adopted General Plan and will comprise an integrated, internally consistent and compatible statement of policies for the Town.

3. The General Plan amendment furthers the public interest and promotes the general welfare of the Town by providing for a logical pattern of land uses and clarifying various land use policies for the Town.

Comment: The proposed change to the Land Use Element of the adopted Town of Apple Valley General Plan furthers the public interest and promotes the general welfare of the Town by encouraging development to occur in a logical pattern, adjacent to previously developed areas and in ways that allow for clear linkages to circulation and infrastructure systems.

Development Code section 9.06.060 requires the following findings be made in order to approve Zone Change Amendments to the Development Code:

1. The proposed amendment is consistent with the General Plan

Comment: The proposed project is consistent with the goals, policies and standards of all of the General Plan Elements and will further their implementation. Water and sewer lines, as well as streets, can be readily extended to the site and the proposed project is compatible with the natural biotic, cultural, scenic and open space resources of the area with the recommended modifications to the Specific Plan



2. The proposed amendment will not be detrimental to the public health, safety or welfare of the Town or its residents.

Comment: The request will not adversely affect the health, peace or comfort of persons residing in the area and will not be detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, and will not jeopardize, endanger or otherwise constitute a menace to public health, safety or welfare with the proposed modifications to the Specific Plan.

Development Code section 9.03.040 requires that the following findings be made in order to approve a Specific Plan:

A. The proposed specific plan meets all of the following content criteria:

1. Specifies through text and/or diagrams, the distribution, location and extent of the uses of land, including open space, within the area covered by the plan.

Comment The proposed Specific Plan specifies with text and diagrams the distribution, location and amount of land uses, including open space.

2. Specifies through text and/or diagrams, the proposed distribution, location and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid-waste disposal, energy and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan.

Comment The proposed specific plan specifies through text and diagrams the proposed distribution, location and extent of major onsite public facilities and services, including transportation, sewage, water, drainage, energy and other essential services needed to support the plan's land uses. Proposed roads described in the text are illustrated with a plan view map and road cross sections.

3. Specifies through text and/or diagrams, the standards and criteria by which development will proceed, and standards for the conservation, development and utilization of natural resources, where applicable.

Comment The proposal, through text, diagrams and photographs, specifies the standards and criteria by which development will proceed and natural resources will be preserved, managed and utilized in the designated Open Space (OS) area with the proposed recreation/equestrian trail and drainage area. The text, diagrams, photographs and design guidelines outline how the project will interface with the existing desert site.

4. Specifies a program of implementation measures, including regulations, programs, public works projects, and financing measures necessary to carry out Findings A.1, A.2 and A.3 above.

Comment The specific plan includes implementation procedures, a development phasing schedule, possible financial mechanisms and Homeowners' Association (HOA) maintenance responsibilities for street parkways, multi-use trails, bikeways, park, landscaped areas and drainage systems. The phasing schedule calls for the

project to be constructed in four (4) phases, beginning from the north. Tentative Tract Map No. 16922 is filed concurrently with the various phases. The Mitigated Negative Declaration mitigation measures will be incorporated with other TTM Conditions of Approval. The financing methods for various on and off-site improvements will be determined in conjunction with the phasing of the infrastructure.

5. Includes a statement of the relationship of the specific plan to the General Plan, Development Code and other applicable plan or ordinance.

Comment      The Specific Plan contains a chapter on the purpose and authority of the Specific Plan under California Government Code, Sections 65450 through 65454, including content requirements. This chapter also includes the Specific Plan's relationship to the Town's General Plan, Vision 2010, and the Development Code (Zoning Ordinance and Subdivision Ordinance). Deep Creek Estates will be consistent with the General Plan and Development Code.

6. Addresses any other subjects that are necessary for implementation of the General Plan.

Comment      The project would be sequential development adjacent to the approved Jess Ranch Specific Plan to the northwest.

- B. The location and design of the proposed development will be consistent with the goals and policies of the General Plan and with any other applicable plan or policies adopted by the Town and with any other applicable provisions of the Development Code.

Comment      The proposed location will allow the development to be well integrated with, or adequately buffered from, its surroundings, whichever may be appropriate.

- C. The proposed location will allow the development to be well integrated with or adequately buffered from its surroundings, whichever may be appropriate.

Comment:      The Specific Plan preserves and provides access to the site and includes appropriate design standards, setbacks and landscaping in order to buffer the proposed development from the surrounding existing and anticipated residential neighborhoods.

- D. All vehicular traffic generated by the development, either in phased increments or at full build-out, will be accommodated safely and without causing significantly increased congestion upon adjoining streets.

Comment      Based on a Traffic Study, the Specific Plan specifies appropriate traffic mitigation measures, including the extension of roads to support the project's development phases and maintain the LOS C at all Town of Apple Valley intersections.

- E. The final specific plan will identify a methodology to allow land uses to be adequately serviced by existing or proposed public facilities and services. In appropriate circumstances, and as provided elsewhere by this Development Code, the Town may require that suitable areas be reserved for uses such as schools, parks and pedestrian ways; public open spaces may be dedicated or reserved by private

covenant for the common use of residents, establishments or operations in the development.

Comment The Specific Plan includes conceptual plans for circulation, trails, open space and landscaping, water, wastewater, and drainage as well as an infrastructure phasing plan. A Homeowner's Association (HOA) will be responsible for the landscaping and related maintenance in the rights-of-way and other common areas, the trails, trail fencing, walkways and drainage facilities.

- F. In accordance with the requirements of the California Environmental Quality Act (CEQA), environmental impacts have been reduced to a level of insignificance, or in the case where such impacts remain; a statement of overriding considerations must be adopted to justify the merits of project implementation after certification of the Environmental Impact Report.

Comment Although the project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by, or agreed to, by the applicant and mitigations will be implemented to reduce any potential impacts to a level of insignificance.

- G. The proposed specific plan should contribute to a balance of land uses so that local residents may work and shop in the community in which they live.

Comment The project is a proposed residential Specific Plan and will provide the residents of Deep Creek Estates recreational amenities within the project boundaries. The project is less than two (2) miles from major commercial retail centers and abuts existing residents in the adjacent Jess Ranch and Solera communities.

- H. The proposed specific plan will not be detrimental to the public health, safety or welfare of the Town.

Comment: The specific plan is consistent with the General Plan and Development Code and will not be detrimental to the public health, safety or welfare of the Town. The project is adjacent to Tussing Ranch, Deep Creek, and Wren Roads and with the proposed setbacks, one (1)-acre buffer lots and landscaping buffers will be compatible with the surrounding area.

#### Tentative Tract Map Findings

In considering any Tentative Tract Map, the Commission is required by the Development Code to make specific Findings. The following are the Findings for a Tentative Tract Map required under Section 9.71.040 (A5) of the Development Code and a comment to address each:

1. The proposed Subdivision, together with the provisions for its design and improvement, is consistent with the General Plan and any applicable Specific Plan. The proposed subdivision or land use is compatible with the objectives, policies, general land uses and programs specified in the General Plan and any applicable Specific Plan (Subdivision Map Act 66473.5).

Comment: The subject property is consistent with the Specific Plan land use designations of Residential Single-Family (R-SF) and Residential

Equestrian (R-EQ) and the development standards contained within the Deep Creek Estates Specific Plan. The project is a proposal to subdivide the eighty (80)-acre property into eighty-seven (87) single-family lots and, with adherence to staff recommended conditions, will meet the minimum requirements for lot size, width and depth as prescribed by the Specific Plan and will be consistent with the goals and policies of the General Plan.

2. The Planning Commission has considered the effects of its action upon the housing needs of the region and has balanced these needs against the public service needs of its residents and available fiscal and environmental resources (Subdivision Map Act Section 66412.3).

Comment: The proposal consists of a land subdivision located on vacant, residentially designated land for the purpose of future residential development. No houses are being removed and housing needs will not be negatively impacted.

3. The design of the subdivision provides, to the extent feasible, for the future passive or natural heating or cooling opportunities in the subdivision.

Comment: The lots created under this subdivision within the Residential Single-Family (R-SF) and Residential Equestrian (R-EQ) land use designations are appropriate in size to provide natural heating and cooling opportunities for development of the site. However, as development occurs, the individual lots are subject to the implementation of natural heating and cooling requirements pursuant to Title 24 energy requirements.

4. The Planning Commission shall determine whether the discharge of waste from the proposed subdivision into the existing sewer system would result in a violation of the requirements as set forth in Section 13000 et seq., of the California Water Code. If the Planning Commission finds that the proposed waste discharge would result in or add to a violation of said requirements; the Planning Commission may disapprove the subdivision (Subdivision Map Act Section 66474.6).

Comment: The project is a residential land subdivision and meets the requirements for connection to the Apple Valley Sewer System. Financial arrangements, plans and improvement agreements must be approved by the Town of Apple Valley Public Works Division.

## RECOMMENDATION

Based upon the information contained within this report, and any input received from the public at the hearing and the policy direction of the Town Council for this project, it is recommended that the Planning Commission move to recommend to the Town Council:

7. Determine that the proposed General Plan Amendment, Zone Change, Specific Plan and Tentative Tract Map will not have a significant effect on the environment with adherence to the Mitigation Measures recommended in this report.
8. Determine the proposed project could have the potential for adverse effects on wildlife resources and the applicant is responsible for the payment of Fish and Game fees at the time the Notice of Determination is filed with the County.
9. Adopt the Mitigated Negative Declaration finding and Mitigated Monitoring Program for GPA 2004-002, ZC No. 2004-002, SP No. 2004-002 and TTM No. 16922, finding that on the basis of the whole record before the Planning Commission, including the Initial Study and any comments received, there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects the Town's independent judgment and analysis. The Initial Study and Mitigated Negative Declaration are available at the Town's Planning Division which constitutes the record of proceedings upon which its decision is based.
10. Find that the facts presented in the staff report support the required Findings for approval and adopt those findings.
11. Adopt Planning Commission Resolution No. 2007-028 forwarding to the Town Council a recommendation for approval of General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922. This includes a recommendation to approve the conforming amendment to the General Plan Land Use designation and rezoning from Residential Low Density (R-LD) to Specific Plan (S-P) land use designation and from Residential-Agriculture (R-A) to Specific Plan (SP) zoning district in accordance with Exhibits A-1, A-2, B-1 & B-2 of Planning Commission Resolution No. 2007-028 and recommend the adoption of the "Deep Creek Estates" Specific Plan.
12. Direct staff to file a Notice of Determination.

**Prepared By:**

**Reviewed By:**

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Becky Reynolds  
Principal Planner

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Lori Lamson  
Assistant Director of Community Development

## **ATTACHMENTS**

1. Planning Commission Resolution No. 2007-028  
Exhibit "A-1 and A-2" - Proposed and Existing Land Use Designations  
Exhibit "B-1 and B-2" - Proposed and Existing Zoning Designations  
Exhibit "C" - Tentative Tract Map No. 16922 (reduced copy)
2. Recommended Conditions of Approval for TTM No. 16922
3. Town Council Staff Report - April 22, 2008
4. Planning Commission Staff Report - January 16, 2008
5. Planning Commission Staff Report - October 17, 2007

The Deep Creek Estates (modified) Specific Plan (separate handout)

Tentative Tract Map No. 16922 – Full Size (separate handout)

**PLANNING COMMISSION RESOLUTION NO. 2007- 028**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL APPROVE THE SPECIFIC PLAN NO. 2004-002. THE SPECIFIC PLAN, "DEEP CREEK ESTATES INCLUDES EIGHTY (80) ACRES OF SINGLE-FAMILY RESIDENTIAL AND RESIDENTIAL EQUESTRIAN, ONE (1) DWELLING UNIT PER MINIMUM HALF (1/2)-ACRE LOTS WITH MINIMUM ONE (1) ACRE BUFFER LOTS. THE PLANNING COMMISSION RECOMMENDS APPROVAL OF GENERAL PLAN AMENDMENT TO CHANGE 2004-002 FROM THE GENERAL PLAN LAND USE DESIGNATION OF RESIDENTIAL LOW DENSITY (R-LD), ONE (1) DWELLING UNIT PER 2.5 TO 5.0 ACRES TO SPECIFIC PLAN (S-P) AND ZONE CHANGE FROM RESIDENTIAL AGRICULTURE (R-A), ONE (1) DWELLING PER 2.5 TO 5.0 ACRE, TO SPECIFIC PLAN (S-P) ZONE DESIGNATION, AND TENTATIVE TRACT MAP 16922 WITHIN AN EIGHTY (80) ACRE PARCEL GENERALLY LOCATED AT THE NORTHWEST CORNER OF TUSSING RANCH ROAD AND DEEP CREEK ROAD; SECTION 7, TOWNSHIP 4 NORTH, RANGE 3 WEST OF SAN BERNARDINO MERIDIAN; APNS 0434-201-14 and -48; AND RECOMMENDS APPROVAL OF TENTATIVE TRACT MAP NO. 16922.**

**WHEREAS**, the Town of Apple Valley General Plan was adopted by the Town Council on October 27, 1998; and

**WHEREAS**, the Town of Apple Valley General Plan has been previously amended by the Town Council on the recommendation of the Planning Commission; and

**WHEREAS**, Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley was adopted by the Town Council on October 24, 2000; and

**WHEREAS**, Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley has been previously amended by the Town Council on the recommendation of the Planning Commission; and

**WHEREAS**, specific changes are proposed to the Land Use Element of the adopted General Plan of the Town of Apple Valley by amending the Land Use Designation for parcels generally located on a site bordered on the north by Wren Road, on the south by Tussing Ranch Road and on the east by Deep Creek Road. APNs 0434-201-14 and -48 (Exhibits A-1 and A-2); and

**WHEREAS**, specific changes are proposed to Chapter 9.05, Section 9.05.040 "Adoption of the Official Zoning Districts Map" of Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley by amending the Zoning designation of parcels generally located on a site bordered on the north by Wren Road, on the south by Tussing Ranch Road and on the east by Deep Creek Road. APNs 0434-201-14 and -48 (Exhibits B-1 and B-2);

**WHEREAS**, on, May 2, 2008, General Plan Amendment and Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922 were duly

noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

**WHEREAS**, the Planning Commission hereby finds that the Mitigated Negative Declaration includes a mitigation monitoring program, and

**WHEREAS**, based upon the State Guidelines to Implement the California Environmental Quality Act (CEQA), the proposed General Plan, Zone Change, Specific Plan and Tentative Tract Map could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent; therefore, a Mitigated Negative Declaration has been prepared in compliance with the California Environmental Quality Act (CEQA) and State Guidelines for the Implementation of CEQA; and

**WHEREAS**, there is evidence before the Town that there is one (1) drainage course delineated as a “surface water driven ephemeral stream” and therefore considered to not be “Waters of the US” per criteria of the Army Corp of Engineer’s (ACOE) However, certain sensitive species may occupy the site and may be potential habitat according to a consulting biologist. In accordance with Section 711.4 of the Fish and Game Code, payment of a fee for a Mitigated Negative Declaration must be paid and collected by the Clerk of the Board of the County of San Bernardino; and

**WHEREAS**, on May 21, 2008, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on General Plan Amendment and Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922, receiving testimony from the public; and

**WHEREAS**, the proposed General Plan Amendment and Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922 (Exhibit C) are consistent with Town of Apple Valley 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 with the recommended modifications to the Specific Plan (Exhibit C).

**NOW, THEREFORE, THE PLANNING COMMISSION RESOLVES, FINDS AND DETERMINES AND RECOMMENDS THAT THE TOWN COUNCIL MAKE THE FOLLOWING FINDINGS AND DETERMINATIONS AND TAKE THE FOLLOWING ACTIONS:**

**Section 1.** In consideration of the evidence received at the public hearing, and for the reasons discussed by the Commissioners and Council at said hearings, the Planning Commission and Town Council of the Town of Apple Valley, California, find that the changes proposed under General Plan Amendment and Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922 (Exhibit C) are consistent with the Goals and Policies of the Town of Apple Valley, and that Zone Change No. 2004-002 and Tentative Tract Map No. 16922 are in conformance to Specific Plan No. 2004-002.

**Section 2.** Based upon the information contained within the Initial Study prepared in conformance with the State Guidelines to Implement the California Environmental Quality Act (CEQA) and General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922 may have an impact upon the



environment if not mitigated and finding that on the basis of the whole record before the Planning Commission and Town Council, including the Initial Study and any comments received, that there is no substantial evidence that the project as mitigated may have a significant effect on the environment and that the Mitigated Negative Declaration reflects the Town's independent judgment and analysis; and that the record of proceedings upon which its decision is based, including the Initial Study and Mitigated Declaration and Mitigation Monitoring Program, is available at the offices of the Town's Planning Division."

**Section 3.** Adopt the findings recommended in the Staff Report for General Plan Amendment 2004-002, Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922.

**Section 4.** Adopt a Town Council Resolution approving a General Plan Amendment as requested on the Assessors Parcel. The approximately eighty (80)-acre site is located at the northwest corner of Deep Creek Road and Tussing Ranch Road; APN(s) 0434-201-14 and -48; and as shown on Exhibit "A-1 and B-1" attached to this Resolution.

**Section 5.** Adopt an Ordinance approving Specific Plan No. 2004-002, as described herein.

**Section 6.** Adopt an ordinance approving Zone Change No. 2004-002, as described herein and amend that certain portion of Title 9 (Development Code) of the Town of Apple Valley Municipal Code, Section 9.05.040 "Adoption of the Official Zoning Map" subsection "B" by amending the boundaries identified on the Official Zoning Map of the Town of Apple Valley by changing the zoning designation on Assessor Parcels Numbered APN(s) 0434-201-14 and -48 as shown on Exhibit "B-1 and B-2" attached to this Resolution, and incorporated herein by reference, from Residential Agriculture (R-A), to Specific Plan (SP).

**Section 7.** Approve Tentative Tract Map No. 16922, based upon the findings recommended in the Staff Report and subject to the Conditions of Approval Recommended by staff.

Approved and adopted by the Planning Commission of the Town of Apple Valley this 21<sup>st</sup> day of May, 2008.

\_\_\_\_\_  
David Hernandez, Chairman

ATTEST:

I, Patty Hevle, 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 21<sup>st</sup> day of May, 2008, by the following vote, to-wit:

AYES:

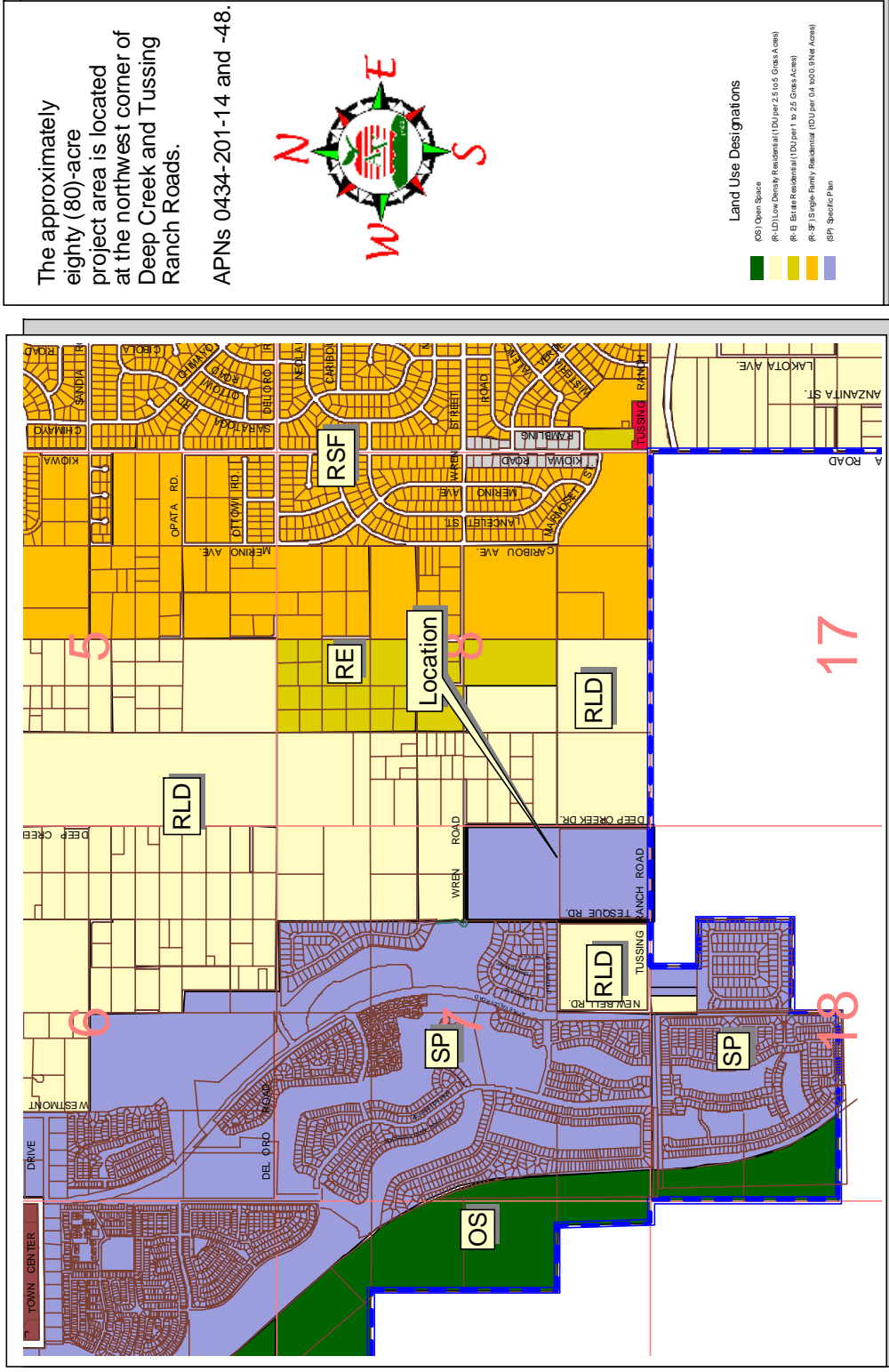
NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Patty Hevle, Planning Commission Secretary

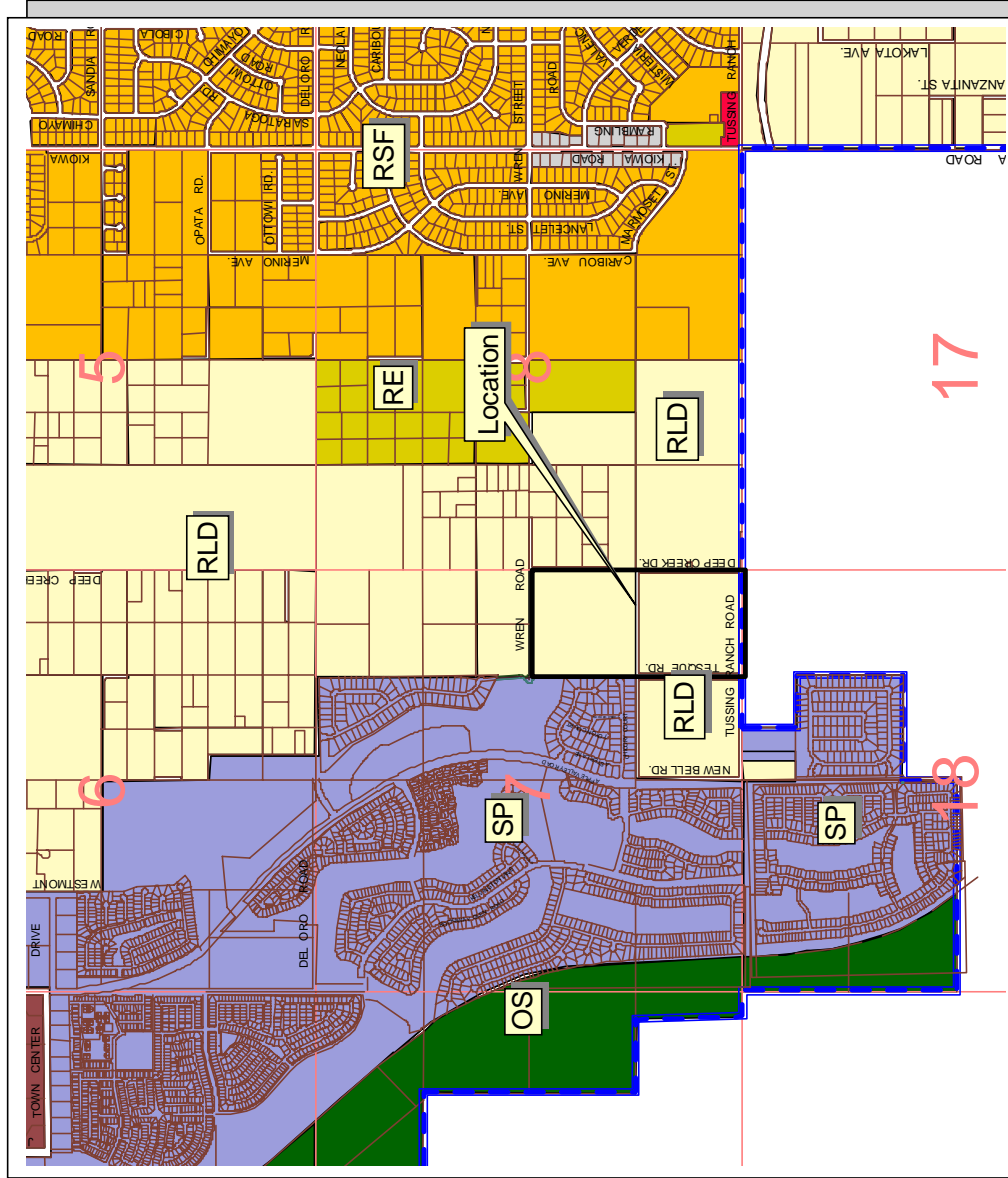
**Proposed General Plan Land Use**  
**Deep Creek Estates General Plan Amendment No. 2004-002**



October 17, 2007

# Existing General Plan Land Use

## Deep Creek Estates General Plan Amendment No. 2004-002



The approximately eighty (80)-acre project area is located at the northwest corner of Deep Creek and Tussing Ranch Roads.  
APNs 0434-201-14 and -48.

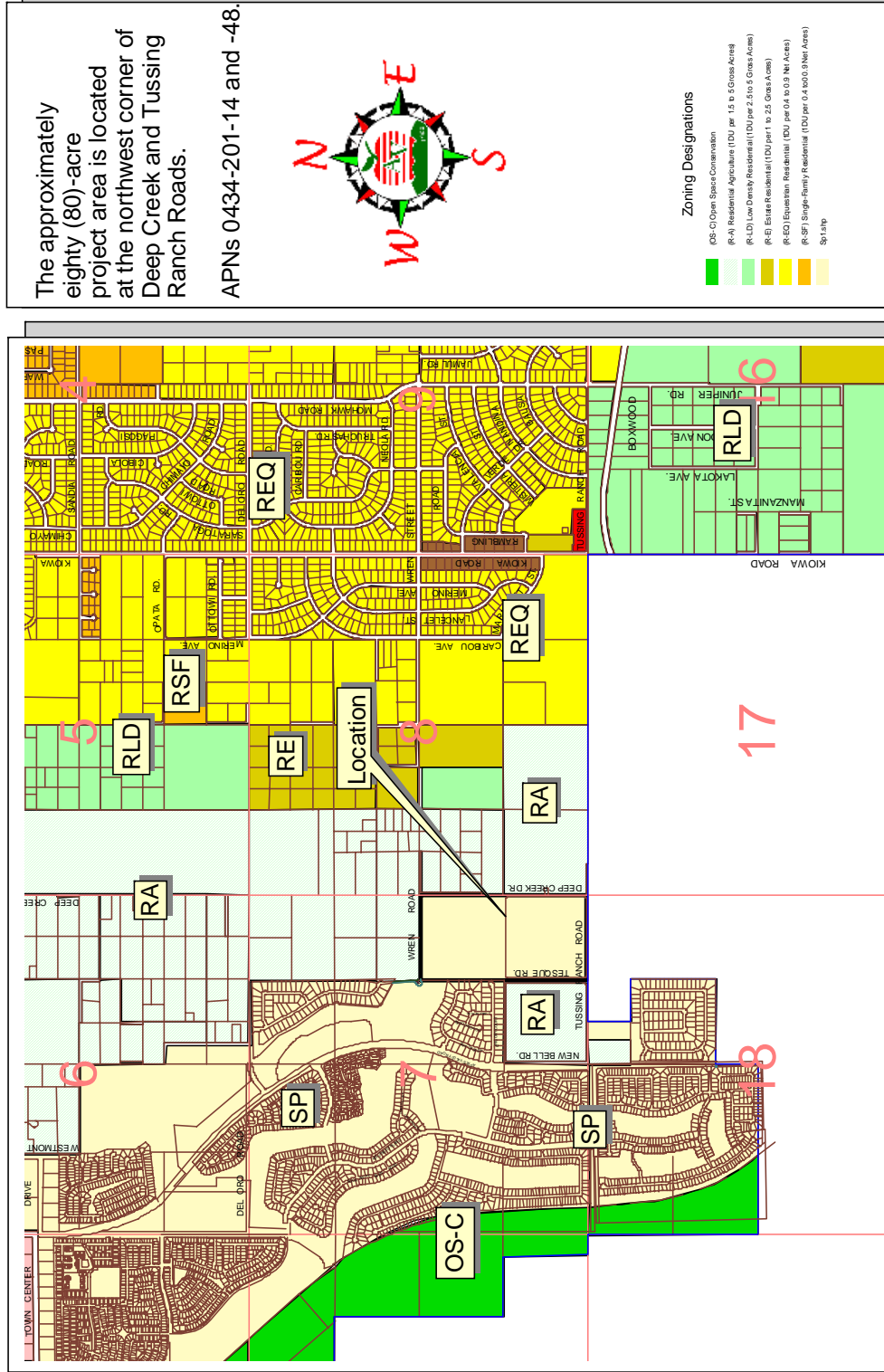


- Land Use Designations**
- OS) Open Space
  - RLD) Low Density Residential (1 DU per 2.5 to 5 Gross Acres)
  - RE) Basic Residential (1 DU per 1 to 2.5 Gross Acres)
  - RSF) Single-Family Residential (1 DU per 0.4 to 0.3 Net Acres)
  - SP) Specific Plan

October 17, 2007

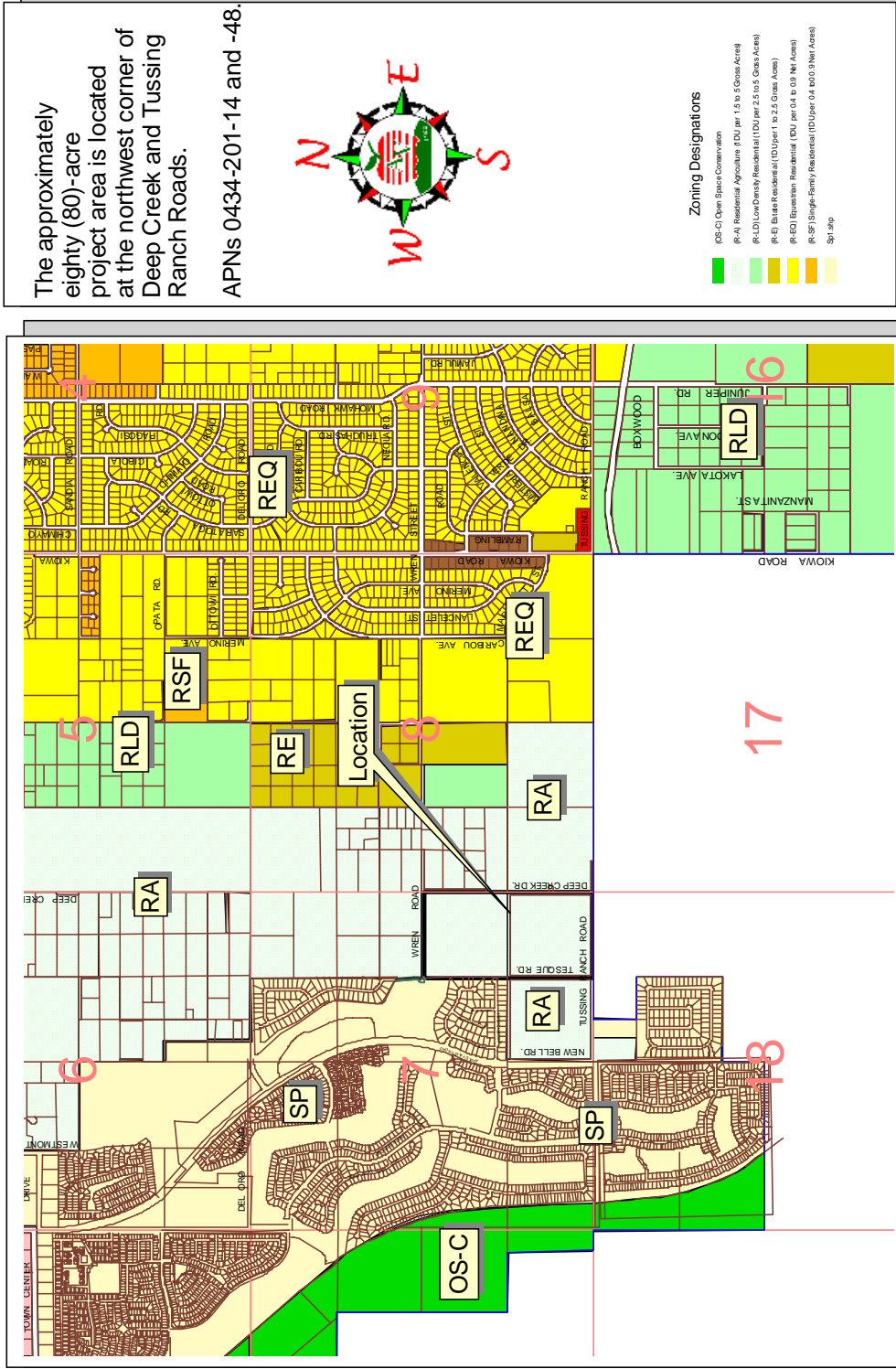
# Proposed Zoning Designation

## Deep Creek Estates Zone Change No. 2004-002



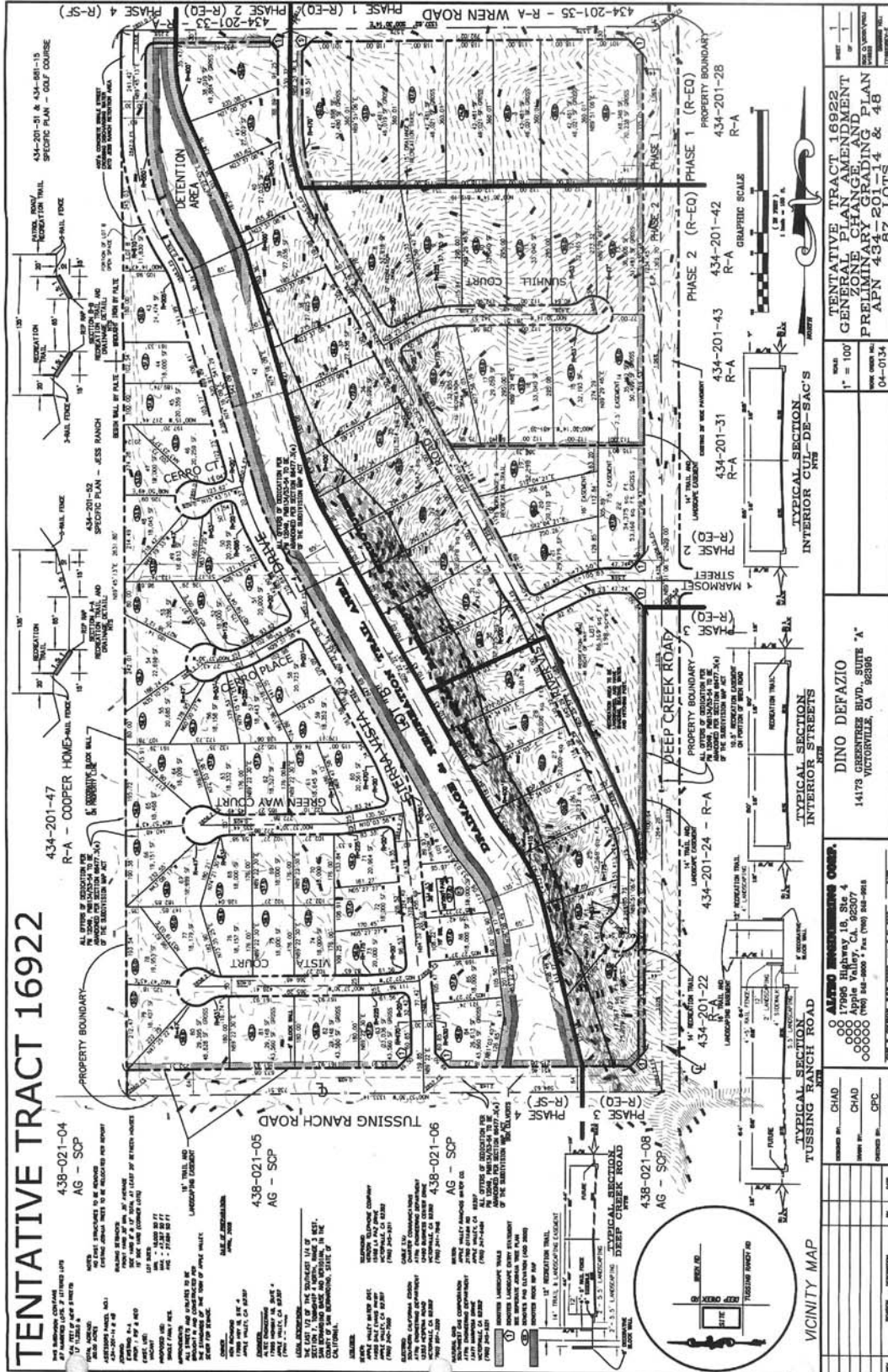
October 17, 2007

**Existing Zoning Designation**      **Deep Creek Estates Zone Change No. 2004-002**



October 17, 2007

Exhibit "C"



# TENTATIVE TRACT 16922

438-021-04  
AG - SCP  
438-021-05  
AG - SCP  
438-021-06  
AG - SCP  
438-021-08  
AG - SCP  
434-201-31  
R-A  
434-201-35  
R-A  
434-201-42  
R-A  
434-201-43  
R-A  
434-201-44  
R-A  
434-201-45  
R-A  
434-201-46  
R-A  
434-201-47  
R-A  
434-201-51 & 434-061-15  
SPECIFIC PLAN - GOLF COURSE

NO.	NAME	DATE
1	CHAD	
2	CHAD	
3	CPC	

**ALTAIO ENGINEERING CORP.**  
17990 Highway 18, Ste. 4  
Apple Valley, CA 92307  
(951) 866-0909 • Fax (951) 866-0984  
WWW.ALTAIO.COM

**DINO DEFAZIO**  
14173 GREENTREE BLVD., SUITE "A"  
VICTORVILLE, CA 92386

**TENTATIVE TRACT 16922  
GENERAL PLAN AMENDMENT  
ZONING CHANGE AND  
PRELIMINARY TRAILING PLAN  
APN 434-201-44 & 45  
87 LOTS**

## TOWN OF APPLE VALLEY

### RECOMMENDED CONDITIONS OF APPROVAL

#### Case No. Tentative Tract Map No. 16922

Please note: *Many of the suggested Conditions of Approval presented herewith are provided for informational purposes and are otherwise required by the Municipal Code. Failure to provide a Condition of Approval herein that reflects a requirement of the Municipal Code does not relieve the applicant and/or property owner from full conformance and adherence to all requirements of the Municipal Code.*

#### **Planning Division Conditions of Approval**

- P1. This tentative subdivision shall comply with the provisions of the State Subdivision Map Act and the Town Development Code. This tentative approval shall expire three (3) years from the date of approval by the Planning Commission/Town Council. A time extension may be approved in accordance with the State Map Act and Town Ordinance, if an extension application is filed and the appropriate fees are paid thirty (30) days prior to the expiration date. The Tentative Tract Map becomes effective ten (10) days from the date of the decision unless an appeal is filed as stated in the Town's Development Code.
- P2. Prior to approval of the Final Map, the following agencies shall provide written verification to the Planning Division that all pertinent conditions of approval and applicable regulations have been met:
- Apple Valley Fire Protection District  
Apple Valley Ranchos Water Company  
Apple Valley Public Services Department  
Apple Valley Engineering Division  
Apple Valley Planning Division  
California Department of Fish & Game
- P3. Upon approval of the Tentative Tract Map No. 16922, the applicant shall be responsible for the payment of all CEQA-mandated environmental review and filing fees to the Department of Fish and Game and/or the San Bernardino County Clerk of the Board of Supervisors.
- P4. The applicant shall agree to defend at his sole expense (with attorneys approved by the Town), and indemnify the Town against any action brought against the Town, its agents, officers or employees resulting from or relating to this approval. The applicant shall reimburse the Town, its agents, officers or employees for any judgment, court costs and attorney's fees which the Town, its agents, officers or employees may be required to pay as a result of such action. The Town may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of these obligations under this condition.
- P5. Approval of the Tentative Tract Map No. 16922 by the Planning Commission is understood as acknowledgement of Conditions of Approval by the applicant, unless an appeal is filed in accordance with Section 9.12.250, Appeals, of the Town of Apple Valley Development Code.

- P6. Prior to recordation the applicant shall provide the Planning Division with a copy of the subdivision in an electronic format compatible with the Town’s current technology.
- P7. All slopes over three (3) feet in height shall be landscaped and irrigated according to Town standards.
- P8. Any protected desert plants or Joshua Trees impacted by the development are subject to the regulations specified in Section 9.76.020 (Plant Protection and Management) of the Development Code. Prior to the issuance of a Grading Permit, a study by a qualified Native Plant Expert shall be prepared to determine if the identified trees will be saved, located or removed, in compliance with the Town’s Native Plant Protection Ordinance.
- P9. Lot design, size and development phasing shall conform to development standards and Conditions of Approval contained within the Deep Creek Estates Specific Plan Development Standards and Tentative Tract No. 16922. The specific standards contained within the Deep Creek Estates supersede those contained within the Town Development Code. Topics not addressed by the Deep Creek Estates Specific Plan shall be governed by the Town Development Code.
- P10. A six (6)-foot six (6)-inch high sound barrier shall be provided on the lots adjacent to Tussing Ranch Road at the landscape setback line. The noise control barriers may be constructed using one of the following materials:
  - a. Decorative masonry block
  - b. Stucco on Wood Frame
  - c. 3/4 –inch plywood
  - d. 1/4-inch glass or 1/2 –inch LEXAN
  - e. Any combination of these materials or any material rated 3.5 pounds per square foot surface weight or greater.

Each completed noise control barrier must present a solid face from top-to-bottom. Cutouts and openings are not permitted except for drain holes.

- P11. The buildings shall be constructed at a minimum in accordance with Table 10 below. Any two story homes constructed along Tussing Ranch Road shall install windows with a Sound Transmission Class (STC) rating as high as STC 32.

**TABLE 10:**

<u>Panel</u>	<u>Construction</u>
Exterior Wall	7/8-inch stucco or siding, 2-inch by 4-inch studs, R-13 fiberglass insulation, drywall.
Windows	Dual pane
Door	Solid Core Wood with weather stripping
Roof	Shingle or tile over sheathing, R-19 fiberglass Insulation, drywall, vented
Floor	Carpeted except for kitchen and baths.

- P12. If the developer constructs custom homes that consist of clearly different elevations and floor plans, with no two (2) homes the same, a Development Permit shall not be



required, but shall be consistent with the Deep Creek Estates Specific Plan Design Guidelines.

- P13. Subdivision walls shall be constructed of slump stone, split face or masonry material, along the perimeter of the property lines. However, within the hillside areas, wrought iron and/or tubular fencing may be constructed. Prior to recordation of the Final Map, the Developer/applicant shall submit detailed plans showing all proposed walls for this subdivision subject to approval by the Director of Economic and Community Development (or designee).
- P14. If the tract map is adjacent to existing development, a fence/wall plan shall be submitted with the grading and landscape/irrigation plans to identify how new fencing or walls will relate to any existing fences or walls located around the perimeter of the tract/parcel map. The developer shall be required to connect to the existing fencing/walls or collaborate with the adjacent property owners to provide new fencing/walls and remove the existing fence/wall, both options at the developer's expense. Double fencing shall be avoided and review and approval of the fencing/wall plan is required prior to issuance of grading permits.
- P15. The project shall conform to the R-SF, Residential Single-Family and R-EQ, Equestrian Residential, development standards for front, side and rear yard-building setbacks in conformance with the Deep Creek Estates Development Standards.
- P16. The project shall incorporate sidewalks, which shall be shown on Engineering Improvement Plans, subject to approval by the Director of Economic and Community Development (or designee).
- P17. Prior to grading of the site, updated Biological Studies (Desert Tortoise, Mohave Ground Squirrel, Burrowing Owl) shall be submitted to ensure that special status species have not move onto the site since the date of the initial biological survey conducted in August 23, 2007.
- P18. Prior to issuance of a grading permit, clearance from the California Department of Fish and Game must be obtained for any permits deemed necessary for the location or habitat of the Mojave Ground Squirrel.
- P19. During grading of any phase of the project, the site shall be monitored to ensure that the presence of any sensitive or special status animal species is not evident. A pre-construction survey shall be conducted prior to land clearing to ensure the special status species (Desert Tortoise, Mohave ground squirrel, burrowing owl, sharp-shinned hawk and loggerhead shrike) have not moved on to the site since the August 23, 2007 date of the Biological Survey. In the event evidence of special status species are present, appropriate permits shall be obtained from the U.S. Fish and Wildlife Service and California Department of Fish and Game (CDFG).
- P20. The project shall also conform to the Open Space Conservation (OS-C) and the Hillside Ordinance development standards as identified in the Deep Creek Estates Specific Plan and Town of Apple Valley Development Code.
- P21. A copy of the final grading plan shall be submitted to the Planning Division for review and approval.

- d. All on-site cut and fill slopes shall be limited to a maximum slope ratio of 2 to 1 and a maximum vertical height of thirty (30) feet. Setbacks from top and bottom of slopes shall be a minimum of one-half the slope height.
  - e. Slopes shall be contour graded to blend with existing natural contours.
  - f. Slopes shall be a part of the downhill lot when within or between individual lots.
- P22. The Covenants, Conditions and Restrictions (CC&Rs) shall be reviewed and approved by the Planning Division prior to final approval of the Tract map. Prior to the sale of the first residential lot for private occupancy, a Homeowner's Association, or Mutual Benefit Corporation, shall be formed or incorporated to control and maintain the common privately owned properties/areas within said community. Said Homeowner's Association, or corporation, shall be reviewed by the Town prior to the sale of the first lot within the community and acceptable Covenants, Conditions & Restrictions (CC&Rs) shall be created to identify all of the duties and costs associated with both the short- and long-term maintenance and repair of the facilities and features of the common areas. The CC&Rs should specify that the Homeowner's Association shall be responsible for the enforcement of the CC&Rs. CC&Rs created for a community shall detail the short and long-term maintenance and operation of all streets, common areas and facilities within a development, including all interior and exterior landscaping (if not covered by a Landscape Maintenance District), walls, gates, stacking areas, cross-lot drainage structures and recreational facilities, etc. The CC&Rs shall be submitted to the Town of Apple Valley for review and approval prior to the approval of the final map. The Town of Apple Valley shall not be a party to any CC&Rs created for a community and shall not enforce any provisions of said CC&Rs.
- P23. A clear and comprehensive disclosure document shall be provided to each prospective home/lot buyer that presents the responsibilities, liabilities and costs of both the short- and long-term maintenance and liability of all common areas as detailed within the CC&Rs, as well as the method(s) of the Homeowner's Association or corporation's enforcement of the CC&Rs.
- Acknowledgement of receipt of this disclosure document, on forms provided by the Community Development Department of the Town of Apple Valley, and signed by the prospective buyer, shall be retained by the Homeowner's Association, or corporation, and a copy of said form shall be provided to the Town of Apple Valley prior to occupancy of any home built upon the lot purchased.
- P24. Prior to recordation of Final Map, three (3) sets of detailed landscaping and irrigation plans for the parkway area and subdivision entrances, prepared by a qualified licensed landscape professional, shall be submitted to the Planning Division for review and approval. The landscape and irrigation plans shall be prepared in compliance with the applicable landscape section of the Town Development Code.
- P25. All site amenities, including landscaping and irrigation, as shown on plans approved by the Town Planning Division, shall be installed prior to Final Occupancy of the first residential unit of Phase Ns. 2. Landscaping shall utilize drought tolerant, desert appropriate landscaping wherever feasible.

- P26. The applicant/developer shall install the landscaping along the perimeter of the development and within the retention/detention basins. The applicant/developer shall form a Homeowner's Association (HOA) to maintain the Open Space areas of the development, subject to review by the Town Attorney.
- P27. The Town Engineer, or designee, shall determine and approve that trails within the drainage easement are properly sloped and accessible for trail development and use. All trails adjacent to the drainage easement, as currently proposed, shall be built with white rail fencing separating the trail from the drainage channel.
- P28. All major and secondary streets (Deep Creek Road and Tussing Ranch Road) shall be dedicated and developed with a twelve (12)-foot wide trail easement, in addition to the right-of-way, on the north and west side. These trails should provide a meandering trail path, reducing straight lines/corridors where possible.
- P29. All trails shall be offered for dedication and developed in conformance with the Town's Multi-Use and Equestrian Trails Standards and Figure C-6, as adopted at time of map recordation
- P30. The Final Map shall show and record a non-vehicular access agreement for all lots fronting Tussing Ranch and Deep Creek Roads.
- P31. All applicable conditions and mitigation measures of the Deep Creek Estates Specific Plan shall apply to this map.
- P32. Any improvements along River Vista Road shall be completed concurrently with and prior to the Certificate of Occupancy of Lot No. 42. Improvements may include additional split rail fencing for horse training and/or horse showing.
- P33. The Neighborhood Recreation Trail Easements shall be integrated within the development located primarily along the rear of interior lots as shown on the Tentative Tract Map No. 16922 and conform to the Multi-Use Recreational Trails standards.
- P34. The completion of the park (Lot "A") shall occur of Phase No. 2 and shall have all amenities constructed, subject to review and approval of the Planning Division.
- P35. The approval of TTM No. 16922 is conditioned upon the adoption of the GPA, SP and ZC becoming effective.

#### **Parks and Recreation Department Condition of Approval**

- PR1. Prior to issuance of building permits for new construction, the developer, or assignee, is subject to fees in compliance to the Park and Recreation Department Quimby Ordinance, subject to review by the Planning Division.

#### **Building and Safety Division Conditions of Approval**

- BC1. An engineered grading report, including soils engineering and engineering geology, shall be filed with, and approved by, the Building Official prior to recordation of final map.

- BC2. Grading and drainage plans, including soils report, are to be submitted to, and approved by, the Building Official prior to permit issuance.
- BC3. Submit plans for approval and obtain all permits for all structures and walls.
- BC4. A pre-construction permit and inspection are required prior to any land disturbing activity to verify requirements for erosion control, flood hazard, native plant protection and desert tortoise habitat.
- BC5. A Notice of Intent (NOI) and a Storm Water prevention Plan (SWPP) must be submitted to, and approved by, the Engineering and Building Departments prior to issuance of a grading permit and or any land disturbance.
- BC6. All utilities shall be placed underground in compliance with Town Ordinance no. 89.
- BC7. Erosion control plans are to be submitted to, and approved by, the Building Official prior to issuance of permits.
- BC8. A pre-grading meeting is required prior to beginning any land disturbance. This meeting will include the Building Inspector, General contractor, Grading Contractor, soils technician and any other parties required to be present during grading process such as Biologist, Paleontologist.
- BC9. A dust palliative or hydro seed will be required on those portions of the site graded but not constructed (phased construction).
- BC10. Page No. 2 of the submitted building plans will contain the Final Conditions of Approval.
- BC11. Construction must comply with 2001 California Building codes.
- BC12. Best Managements Practices (BMPs) are required for the site during construction.

**Engineering Division Conditions of Approval**

- EC30. A final drainage plan with street layouts shall be submitted for review and approval by the Town Engineer showing provisions for receiving and conducting offsite and onsite tributary drainage flows around or through the site in a manner which will not adversely affect adjacent or downstream properties. This plan shall consider reducing the post-development site-developed flow to ninety (90) percent of the pre-development flow for a 100 year design storm. (Town Resolution 2000-50; Development Code 9.28.050.C, 9.28.100)
- EC31. Street improvement plans shall be submitted to the Town Engineer for review and approval.
- EC32. All interior streets shall be improved to Town standards with curb, gutter and street pavement. Minimum residential width of streets shall be thirty-six (36) feet curb to curb.

- EC33. All streets abutting the development shall be improved a minimum half-width of twenty-eight (28) feet improvements standards with curb, gutter and sidewalk on the development side.
- EC34. A forty (40)-ft wide (30 half-width plus 10') road dedication along Wren Road adjacent to the property shall be granted to the Town of Apple Valley prior to Final Map Approval.
- EC35. A forty-four (44)-ft wide half-width road dedication along Deep Creek Road adjacent to the property shall be granted to the Town of Apple Valley prior to Final Map Approval.
- EC36. A sixty-four (64)-ft wide half-width road dedication along Tussing Ranch Road adjacent to the property shall be granted to the Town of Apple Valley prior to Final Map Approval.
- EC37. Additional right of way at the intersection of Deep Creek Road and Tussing Ranch Road per the Town's supplemental lanes standard shall be required prior to final map Approval.
- EC38. Wren Road adjacent to the property shall be improved to the Town's half-width Local street standards.
- EC39. Deep Creek adjacent to the property shall be improved to the Town's half-width Secondary street standards.
- EC40. Tussing Ranch Road adjacent to the property shall be improved to the Town's half-width Major Divided street standards.
- EC41. During the grading of the streets, soils testing of the street subgrades by a qualified soils engineering firm shall be performed to determine appropriate structural street section. Minimum asphalt concrete thickness for all streets shall be 0.33 ft.
- EC42. All required improvements shall be bonded in accordance with Town Development Code unless constructed and approved prior to approval and recordation on the Final Map.
- EC43. An encroachment permit shall be obtained from the Town prior to performing any work in any public right of way.
- EC44. Final improvement plans and profiles shall indicate the location of any existing utility which would affect construction and shall provide for its relocation at no cost to the Town.
- EC45. A final grading plan shall be approved by the Town Engineer prior to issuance of a grading permit. A grading permit shall not be issued until street improvement plans have been submitted to the Town Engineer for review and substantial completion of the street plans has been attained as determined by the Town Engineer.
- EC46. The developer shall form or annex into an assessment district to provide for the ongoing maintenance of the retention basin and accessory structures, street lights, and parkway landscaping, shall be formed by the developer prior to final map approval. The assessment district is required and will be implemented in the event the Home Owner's Association becomes dysfunctional.

- EC47. All street names shall be approved by the Town and such approval shall be coordinated through the Town Engineer.
- EC48. The developer shall present evidence to the Town Engineer that he has made a reasonable effort to obtain a non-interference letter from any utility company that may have rights of easement within the property boundaries.
- EC49. Utility lines shall be placed underground in accordance with the requirements of the Town.
- EC50. The developer shall make a good faith effort to acquire the required off-site property interests. If the developer fails to acquire those interests the developer shall, at least 120 days prior to submittal of the final map for approval, enter into an agreement to complete the improvements pursuant to Government Code Section 66462 at such time as the Town acquires the property interests required for the improvements. Such agreement shall provide for payment by the developer of all costs incurred by Town to acquire the off-site property interests required in connection with the subdivision. Security for a portion of these costs shall be in the form of a cash deposit in the amount given in an appraisal report obtained by the developer, at the developer's cost. The appraiser shall have been approved by the Town prior to commencement of the appraisal. Additional security may be required as recommended by the Town Engineer and Town Attorney.
- EC51. Traffic impact fees adopted by the Town shall be paid by the developer.
- EC52. Any developer fees adopted by the Town including but not limited to drainage fees shall be paid by the developer.
- EC53. Any required street striping shall be thermoplastic as approved by the Town Engineer.
- EC54. Unimproved Cross lot drainage shall not be allowed. The Home Owner's Association shall maintain all improved cross-lot drainage.
- EC55. The developer shall obtain and submit to the Planning Division prior to occupancy, the following signed statement by the purchasers of the homes located within the Landscape and Lighting Assessment district (subject to final approval by the Town Attorney): "In purchasing the home, I am aware that the home is located in the boundaries of a Landscape and Lighting Assessment District for the maintenance of drainage, landscaping, fencing and other similar improvements and that an annual landscaping maintenance charge shall be levied in the event the Home Owner's Association becomes dysfunctional.
- EC56. In the event that an applicant/developer chooses to seek Council approval of the Final Map prior to completion of the required improvements, an "Agreement for Construction of Improvements" shall be required. In accordance with the California Labor Code, any such Agreement will contain a statement advising the developer that certain types of improvements will constitute a public project as defined in California Labor Code, Sections 1720, and following, and shall be performed as a public work, including, without limitation, compliance with all prevailing wage requirements.

EC57. Easements, as required for roadway slopes, drainage facilities, utilities, access to adjacent properties, etc., shall be submitted and recorded as directed by the Town Engineer. No structures shall be placed on any part of the easements except those directly related to the purposes of said easements.

EC58. The detention basin shall be designed to include the Town's Standard Two-Stage drywells, subject to review and approval by the Town Engineer.

**Public Works Division Conditions of Approval**

**Prior to Map Recordation:**

PW1. A sewer feasibility study is required to determine how public sewer collection can be provided by the Town of Apple Valley. Contact the Apple Valley Public Works Department (760-240-7000 ext. 7500) to determine procedure and costs associated with completing said study.

PW2. Sewage disposal shall be by connection to the Town of Apple Valley sewer system. Financial arrangements, plans and improvement agreements must be approved by the Town of Apple Valley Public Works Department.

PW3. Buy-in fees will be required prior to Recordation. Contact the Public Works Department for costs associated with said fees.

**NON-STANDARD CONDITIONS:**

**Applies only to construction phase one, lots 1 through 7 along Wren Road.**

PW4. Soil percolation testing for the subsurface disposal system shall meet the requirements of the Town. Submit test results and appropriate fee to the Town Engineer for review.

**Apple Valley Fire Protection District Conditions of Approval**

FD6. The above referenced project is protected by the Apple Valley Fire Protection District. Prior to construction occurring on any parcel, the owner shall contact the Fire District for verification of current fire protection development requirements.

FD7. The development and each phase thereof, shall have two points of paved access for fire and other emergency equipment, and for routes of escape which will safely handle evacuations. Each of these points of access shall provide an independent route into the area in which the development is located. This shall be completed prior to any combustible construction Apple Valley Fire Protection District Ordinance 22, Section (I) Install per A.V.F.P.D. Standard ARI #8.

FD8. Fire lanes shall be provided with a minimum width of twenty-four (24) feet, maintained, and identified. Apple Valley Fire Protection District Ordinance 41 Install per A.V.F.P.D. Standard Series #202.

FD9. A turnaround shall be required at the end of each roadway 150 feet or more in length and shall be approved by the Fire District. Cul-de-sac length shall not exceed 1,000 feet.

Turning radius on all roads within the facility shall not be less than twenty-two (22) feet inside and minimum of forty (40) feet outside turning radius with no parking on street, or forty-seven (47) feet with parking. Road grades shall not exceed twelve percent (12%) unless approved by the Chief. Uniform Fire Code, Section 902.2.2.3 Apple Valley Fire Protection District Ordinance 22, Section 1 (e). Install per A.V.F.P.D. Standard Series #202.

- FD10. Plans for fire protection systems designed to meet the fire flow requirements specified in the Conditions of Approval for this project shall be submitted to and approved by the Apple Valley Fire Protection District and water purveyor prior to the installation of said systems. Apple Valley Fire Protection District, Ordinance 42.
- A. Unless otherwise approved by the Fire Chief, on-site fire protection water systems shall be designed to be looped and fed from two (2) remote points.
- B. System Standards:  
\*Fire Flow 500 GPM @ 20 psi Residual Pressure  
Duration 1 Hour(s)  
Hydrant Spacing 660 Feet  
\*If blank, flow to be determined by calculation when additional construction information is received. Install per A.V.F.P.D. Standard Series #101.
- C. A total of nine (9) fire hydrant(s) will be required. It is the responsibility of the owner/developer to provide all new fire hydrants with reflective pavement markers set into pavement and curb identification per A.V.F.P.D. Standard Install per A.V.F.P.D. Standard Series #101.
- FD6. An approved fire sprinkler system shall be installed throughout any building:  
➤ 5,000 square feet or greater, including garage and enclosed areas under roof, or  
➤ Other per California Building Code requirements. Apple Valley Fire Protection District, Ordinance 41.
- FD7. Apple Valley Fire Protection District Final Subdivision/Tract/Development fees shall be paid to the Fire District prior to final map acceptance according to the current Apple Valley Fire Protection District Fee Ordinance.
- FD8. The developer shall submit a map showing complete street names within the development, to be approved by the Fire District prior to final map.

**End of Conditions**



**TOWN OF APPLE VALLEY, CALIFORNIA  
AGENDA MATTER**

**Subject Item:**

**GENERAL PLAN AMENDMENT NO. 2004-002, ZONE CHANGE 2004-002, SPECIFIC PLAN NO. 2004-002 AND TENTATIVE TRACT MAP NO. 16922. THE REQUEST IS FOR A SPECIFIC PLAN (“DEEP CREEK ESTATES”). THE PROPOSAL CHANGES APPROXIMATELY EIGHTY (80) GROSS ACRES WITH A CURRENT RESIDENTIAL LOW DENSITY (R-LD), ONE (1) DWELLING UNIT PER 2.5 TO 5.0 GROSS ACRE LAND USE DESIGNATION TO SPECIFIC PLAN (S-P) FOR THE SUBJECT AREA AND A REQUEST TO CONSIDER CHANGING THE ZONING DESIGNATION FROM RESIDENTIAL AGRICULTURE (R-A), ONE (1) DWELLING UNIT PER 2.5 TO 5.0 GROSS ACRE TO SPECIFIC PLAN (S-P) FOR THE SUBJECT AREA. THE APPLICANT HAS REQUESTED TO SUBDIVIDE THE TOTAL EIGHTY (80) GROSS ACRE SITE, UNDER TENTATIVE TRACT MAP NO. 16922, INTO EIGHTY-SEVEN (87) SINGLE FAMILY LOTS. ALL LOTS ARE SINGLE-FAMILY RESIDENTIAL AND WILL RANGE FROM 18,000 SQUARE FEET TO 57,748 SQUARE FEET IN SIZE. THE APPROXIMATELY EIGHTY (80)-ACRE SITE IS GENERALLY LOCATED ON THE NORTHWEST CORNER OF TUSSING RANCH AND DEEP CREEK ROADS; APNS 0434-201-14 and -48.**

**Recommended Action:**

**Move to open public hearing and take testimony.  
Close the public hearing. Then:**

13. **Determine** that, based on the Negative Comments to the required Findings for approval, the project is denied. The proposed General Plan Amendment and Zone Change are inconsistent with the Goals and Policies of the General Plan and has the potential to negatively impact the adjacent low density residential neighborhoods.
14. **Find** that the facts presented in the staff report, including the attached Planning Commission staff reports for October 17, 2007 and January 16, 2008, do not support the required Findings for approval and adopt the negative comments in the staff report relating to the required Findings for approval.
15. **Adopt** Town Council Resolution No. 2008- \_\_\_\_ to:
  - a. **Deny** General Plan Amendment No. 2004-002, a proposal to change the existing land use designation of Residential Low Density (R-LD) to Specific Plan (S-P).
  - b. **Deny** Zone Change No. 2004-002, a proposal to change the existing zoning designation of Residential Agriculture (R-A) to Specific Plan (S-P).
  - c. **Deny** Specific Plan No. 2004-002, a proposal to develop single-family residential lots on the subject site.
  - d. **Deny** Tentative Tract Map No. 16922, a request to subdivide the eighty (80)-acre site into eighty-seven (87) single-family residential lots for future development on the subject site.

**Proposed by:** \_\_\_\_\_ **Planning Division**

**Item Number**

**Town Manager Approval:** \_\_\_\_\_ **Budget** **Item**  **Yes**  **No**  **N/A**

## Summary Statement:

In recognition of the length and complexity of this staff report, Council should be aware that the first page of this report represents an Executive Summary of the contents contained herein. The applicant submitted General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan 2004-002 and Tentative Tract Map No. 16922, "Deep Creek Estates", which is located in a Residential Low Density (R-LD) General Plan land use designation area. The procedures for this application is consistent with provisions of the General Plan, Section 9.03.020 "General Plan Consistency" of the Town's Development Code, that authorizes Specific Plan consideration and approval with a General Plan Amendment. Since the project is located in the 'Deep Creek Area', a Specific Plan is required as described in General Plan Land Use Policy LU 6.2 which states:

*"The Town will encourage 2.5 acre minimum lots in areas which have historically been used for agriculture. Increases in density in the Deep Creek Area shall require the preparation of a specific plan. Development in this area should be clustered maintaining to the maximum extent feasible the rural character of the site. The specific plan shall address in detail the provision of adequate infrastructure and services, including circulation, as well as compatibility with agricultural uses in the vicinity and the development's relationship to adjacent properties".*

The Planning Commission conducted two (2) public hearings (October 17, 2007 and January 16, 2008) to review and take testimony for the above referenced project. Upon receiving staff's analysis, testimony from the applicant, the public and subsequent Commission discussion, the Planning Commission considered a motion to approve the project. The motion failed on a 2 to 2 vote, with one (1) Commission member recused from the dais as a result of a stated conflict of interest. Pursuant to State law, a majority vote of the Commission (3 votes) is required for approval of a General Plan Amendment (GPA), Zone Change (ZC) or Specific Plan (SP) and the 2-2 vote is, therefore, technically determined as a denial of the project.

The Specific Plan, as submitted, does not conform to the Town's Development Code relating to Specific Plans. The subject property is suitable for development, although the proposed land uses are not complementary to the surrounding low density residential neighborhoods as proposed. The proposed Specific Plan and Tentative Tract Map lack the details necessary to assure the project meets the development standards envisioned for this project. The proposed project is not consistent with, and complementary to, an integrated, internally consistent and compatible statement of policies for the Town's General Plan. The designated Open Space and Drainage Easement do not have a natural appearance with adjacent areas and do not relate to the desert environment by implementing xeriscape landscaping requirements, the use of water-conserving irrigation, and retention of the existing bluffs through grading for individual lots, rather than mass grading. The Specific Plan and Tentative Tract Map do not provide appropriate design standards, minimum of one (1)-acre lots, setbacks and landscaping in order to buffer the proposed development from the surrounding existing and anticipated rural residential neighborhoods. The overall amenity package that is offered is insufficient and the project appears to be a typical subdivision. In addition to increasing park sizes and associated amenities, the Commission requested that the project provide a minimum lot size of one (1)-acre for the project. The applicant has stated his unwillingness to make this change and requested that the project go forward to the Town Council as submitted. It is important to note that the Deep Creek Estates Specific Plan does not exceed normal standard Development Code requirements other than the two (2) park sites as proposed.

**Background:**

At the October 17, 2007 Planning Commission meeting, staff recommended approval of the GPA, ZNC, Specific Plan and Tentative Tract Map No. 16922, with the condition that the Specific Plan be modified to staff's recommendations. The October 17, 2007 staff report, with findings for approval, is attached to this report. At the October 17<sup>th</sup> meeting, Chairman Hernandez stated that the project did not meet the General Plan Land Use Policies and did not provide adequate buffering. Vice-Chairman Tinsley felt the project had issues that needed to be resolved between the applicant and staff. Commissioner Putko agreed that there were many issues that needed to be resolved between staff and the applicant.

At the October 17<sup>th</sup> meeting the Commission directed the applicant to modify the Specific Plan, as recommended by staff, and to increase lot sizes to one (1)-acre minimum. This also included reducing the length of River Vista Road (cul-de-sac) and combining lots on the southeast portion to create one (1) or two (2) larger parks of one (1)-acre minimum lot size with better and functional amenities.

The Commission directed that the item be brought back on December 5, 2007, with recommended changes by staff and comments made by the Commission. The applicants, Mr. Carl Coleman and Mr. Dino DeFazio, indicated their approval of a continuance to the first meeting in December so they could work with staff to resolve some of the issues that were presented. Even so, Mr. DeFazio stated that, although they would work with staff on the issues discussed at the public hearing, and in response to Chairman Hernandez's request, he indicated he did not intend to increase the lot sizes and would take this issue to the Council. Chairman Hernandez indicated that if the applicant was not willing to increase lot sizes, that a continuance to December would just be postponing the issue at hand. He stated his opposition to a continuance and recommended the Commission deny the project.

Staff met with the applicant(s) on October 29, 2007 to review the proposed modifications and corrections to the Deep Creek Estates Specific Plan and Staff Report. The applicant was informed that the project could be considered at the December 5, 2007 Planning Commission meeting only if changes were made and resubmitted to the Town by November 21, 2007. The project was not resubmitted in a timely manner; therefore, at the December 5<sup>th</sup> meeting, the project was continued to the January 16, 2008 Planning Commission meeting.

Staff met again with the applicants on December 19, 2007 to review the status of the project and re-submittal timelines for the 2008 General Plan Amendments. At the December 19<sup>th</sup> meeting, the applicants stated they agreed with some of the minor corrections and changes to the Specific Plan, but the park areas and lot sizes would not be increased, both of which were recommended by staff and the Planning Commission. Staff indicated that, if the project was not modified as recommended by staff and as directed by the Planning Commission, the application would go forward with a staff recommendation of denial. The applicant agreed to move forward with the project, with the understanding that staff would be recommending denial. Mr. DeFazio met with the Town Manager on January 9, 2008 to discuss issues regarding the Specific Plan and resubmitting the modified Specific Plan. Mr. DeFazio was granted an extended deadline date to resubmit the Specific Plan, which was received on January 10, 2008.

The following list includes notes on the agreed upon changes by the applicant at the October 29, 2007 meeting with staff; however, a revised Specific Plan reflecting all of the changes, was not submitted to the Planning Division. The changes are underlined and the deleted information is shown with ~~strikeout~~.

Recommended Modifications to Specific Plan:

20. Reduce the length of River Vista Road (cul-de-sac) and combine lots on the southeast portion to create one (1) or two (2) larger parks of one (1) acre minimum size with better and more functional amenities for all the Deep Creek residents. (Note: The Planning Commission and Town Council need to determine the larger park areas). The two (2) parks will contain benches and will be fully landscaped including tree shading (*The applicant is not in agreement with this item*).

21. Reduce the impact of the sound attenuation wall (Tussing Ranch Road) with enhanced wall design and materials. Including texture, detailing and changes in wall heights and extensive landscaping (*The applicant is in agreement with this item, but it is not shown in the Specific Plan*).

Exhibit 4-5 shows the conceptual Wall & Fence Plan, but contains incorrect heights for the walls along Tussing Ranch and Deep Creek Roads. The applicant submitted a Perimeter Wall/Fence Exhibit at the December 19<sup>th</sup> meeting with staff, but the exhibit does not reflect enhanced wall design and other recommended details.

22. Landscaped areas:

- a. Parkway street trees shall be a minimum of 24-inch box container size.
- b. Street trees outside perimeter walls shall be a minimum of 24-inch boxed sized trees. Additional perimeter wall trees shall be a combination of 24-inch box and 15-gallon sizes trees.
- c. Entrance trees shall be a combination of 24-inch, 36-inch and 48-inch box container size.
- d. All landscaped areas shall be planted with sufficient 5-gallon shrubs and 1-gallon and smaller ground covers to create ~~thick~~ landscaping in accordance with the Town's Landscape Ordinance. Shrubs and ground covers shall be emphasized outside perimeter walls and at project entry points.

~~Dense~~ Drought tolerant landscaping, per the Town's Landscape Ordinance shall be emphasized outside the perimeter walls, at project entry points along the meandering trail/pedestrian paths and other highly visible landscaped common areas. All landscape area plant type, size and spacing shall be determined by the Director of Economic and Community Development (*The applicant is in agreement with this item and it is generally depicted as Exhibit 5-2A and -2B*).

23. All sidewalks should be six (6) feet wide, except Tussing Ranch Road, which shall be in conformance with the General Plan Circulation Element (*The applicant is in agreement with this item and is shown on the TTM and Exhibit 5-2*).

24. The retention basin (Exhibit No. 6-1B - Lot "B") will be ~~densely~~ planted with native plantings in groups of three (3) and five (5) in accordance with the Town's Landscape Ordinance. The slopes and bottom of the basin will be hydroseeded with native grasses and other native ground covers (*The applicant is in agreement with this item, but it is not shown in the Specific Plan*).

25. Require that the Joshua Tree maintenance and monitoring program specify which Joshua Trees will be preserved in the project area in accordance with the site's Joshua preservation survey (*The applicant is in agreement with this item, briefly explained in 4.4.1 and 7.5.3, but it is not sufficiently detailed in the Specific Plan*).
26. The Homeowner's Association (HOA) shall be created to fund and manage a high level of maintenance, at all times, of the landscaping, structures and other facilities it is responsible for (*The applicant is in agreement with this item, depicted in Exhibit 7-2, but it is not thoroughly described in the Specific Plan*).
27. Redesign the Drainage Easement/Recreation Trail channel to create a more natural look by including greater landscaping with sufficient trees and shrubs to create a fully landscaped channel and use creative grading and rocks to both create a more natural look and to slow storm water runoff. This will be subject to the final drainage plan, as approved by the Town Engineer (*The applicant is in agreement with this item but, it is not shown in the Specific Plan*).
28. Redesign the "Open Space Easement – No Structures" area to include the residual property shown on the rear/side of Lot Nos. 24 to 36 (*The applicant is in agreement with this item, and it is shown on revised TTM and Exhibit 4-3*).
29. On Exhibit No. 7-1, the Phasing Plan should be numbered with appropriate phase numbers. Staff recommends that on Page 7-6, the paragraph under "Phase – Neighborhood Equestrian Area" should be deleted. The improvements on River Vista Road are required under Planning and Engineering Conditions of Approval with TTM No. 16922 (*The applicant is in agreement with this item and submitted a revised phasing plan, Exhibit 7-1, at the 10/17/07 PC meeting*).
30. Revise the development standards to not allow the further division of the perimeter one (1)- acre minimum buffer lots (*added by PC at 10/17/07 meeting but it is not reflected in the Specific Plan development standards*).

At the January 16, 2008 Planning Commission meeting, staff recommended denial of the GPA, ZC, Specific Plan and Tentative Tract Map No. 16922 request, as the Specific Plan was not submitted to the Town with the modifications as recommended by staff and the Planning Commission's comments made at the October 17<sup>th</sup> meeting. The Specific Plan does not conform to the Town's Development Code relating to Specific Plans. The Specific Plan and Tentative Tract Map do not provide appropriate design standards, setbacks and landscaping in order to buffer the proposed development from the surrounding existing and anticipated rural residential neighborhoods. The proposed project is not consistent with, and complementary to, an integrated, internally consistent and compatible statement of policies for the Town's General Plan. The overall amenity package that is offered is insufficient and the project appears to be a typical subdivision. In addition to increasing park sizes and associated amenities, the Commission requested that the project provide a minimum lot size of one (1)-acre for the project, which the applicant has stated his unwillingness to make this change and requested that the project go forward to the Town Council as submitted.

At the January 16<sup>th</sup> meeting, Chairman Hernandez and Commissioner Putko stated they agreed with the staff recommendation for denial. Vice-Chairman Tinsley commented the applicant had alleviated some of his concerns. He felt the project would benefit the area by having a park and by alleviating traffic issues on Deep Creek Road. Commissioner Allen stated there were a number of changes to the project and the transition between half (1/2)-acre lots and the larger

lots were reasonable. Commissioner Allen commended the applicant on his changes and was in favor of the applicant marketing the property as a lot-sale program.

### **Analysis:**

Specific plans are authorized by State Government Code Sections 65450-65457 and the Town's Development Code Chapter 9.03 Specific Plan. The Town's General Plan also authorizes and provides specific plan policy direction on the appropriateness of Town Specific Plans as follows:

*“The General Plan provides for the adoption of specific plans in the Community Reserve land use areas as well as other areas where remoteness, environmental constraints or unique land use concerns require specific land use and/or design controls. All specific plans shall be consistent with the provisions of the adopted General Plan. Any proposed specific plan, which is not consistent with the existing adopted General Plan designation, may only be adopted concurrent with the adoption of the appropriate amendments to the General Plan necessary to maintain consistency.”*

Specific plans effectively establish a link between implementing policies of the Town's General Plan and the individual development proposals in a defined area. A Specific Plan establishes the planning concepts, design and development guidelines and administrative procedures to carry out development of the Specific Plan area. Specific Plans involve comprehensive site planning, including sensitive integration of open space and development areas. Infrastructure planning and creative design approaches are also emphasized. Typically, developers are provided flexibility to respond to market changes and communities gain higher quality development.

In accordance with Town Council policy, each GPA and ZC application is reviewed on a case-by-case basis in connection with consideration of a specific project accompanying the application. A specific plan works in connection with the zoning ordinance (Town's Development Code), although it provides complementary design and development guidelines and zoning-related requirements based on the specific plan's design concepts. Zoning usually is relied upon for parking and height restrictions; whereas, the specific plan provides standards for streetscapes, architecture and other design-oriented matters. Specific plans are required to have higher design standards and special features over and above those normally required by the Development Code.

The Deep Creek Estates Specific Plan proposed land use designations are Single-Family Residential (R-SF) one-half (1/2)-acre lots, Equestrian Residential (R-EQ) from 18,000 – 57,665 square foot lots with an average of 27,683 square feet and 13.5 acres of Open Space (O-S). TTM No. 16922 shows one (1) gross acre lot sizes, located on the north, south and east boundaries adjacent to Multiple-Use Lifeline Trails on Deep Creek and Tussing Ranch Roads. Transitional density buffers, consisting of larger lot sizes, should be provided at the periphery of new residential subdivisions to create a density transition between the new subdivision and adjacent residential land uses of lesser density. The proposed Tentative Tract Map shows one (1) gross acre lots along Tussing Ranch, Deep Creek and Wren Roads; however, the lots were measured by the applicant from the centerline of existing dedicated roadways, shown on the Assessor's Map with forty (40)-foot road dedications. Pursuant to the Code, gross acres are

determined by measuring from the centerline of undedicated roads. If the roadway is currently dedicated, the gross acre calculation is equivalent to net acres. In this case, several lots are calculated to the centerline of dedicated roadways and, therefore, may be less than one (1)-acre gross lot size. The subdivision also shows one-half (½)-acre lots adjacent to Jess Ranch PUD to the northwest and to the southwest, which has a zoning designation of R-A, Residential Agriculture (1 dwelling unit per 2.5 to 5.0 acres). The lots shown on TTM No. 16922, adjacent to R-A zoning, should be increased in size to create a transition from the adjacent property that is of a lesser density.

The eighty (80)-acre project's General Plan land use designation is currently Residential Low Density (R-LD), which includes the approximately ten (10)-acre drainage easement that bisects the property from the southeast to the northwest corner. Therefore, the site, under the present zone designation, may be subdivided into approximately thirty-two (32), 2.5-acre single-family residential lots. This, however, is unlikely given the site's topography and low demand for 2.5-acre home sites.

Specific Plans, typically, include significant parks, open space and other amenities. This may include requiring park sites that are greater in size than the dedication required by the Development Code. Deep Creek Estates incorporates two (2) neighborhood parks. A private park is located in the equestrian portion of the community and encompasses 41,911 square feet. The second neighborhood park is located along Sierra Vista Drive and totals 28,271 square feet. It is for private use of all residents of Deep Creek Estates and includes the following amenities:

- Eating area with 2 park benches
- 20' by 20' shading device
- Minor landscaping with native desert oriented and drought resistant
- Detention area with river rock set in concrete
- An area that will also be a "Stormwater Retention Area" and a "Joshua Tree Relocation Area".

In order to approve the proposed Deep Creek Estates Specific Plan, the Town's General Plan and Development Code require Deep Creek Estates to meet Specific Plan special design features and an amenity package requirement to create a unique and special place. These design requirements should significantly exceed normal standard Development Code requirements. This is particularly the case for Deep Creek Estates, because the project occupies a site of unique scenic beauty, rural quality and is setting the standard and precedent for the Deep Creek corridor's future development. The objective is to make Deep Creek Estates a unique residential community in harmony with the desert, instead of it being presented as just another large, non-distinctive subdivision. Special amenities and high quality design require both creativity and additional costs, although this is off-set by the value added to the project. The amenities are in exchange for the ability to develop under a Specific Plan and, in this case, build at a density of (two) 2 units to the acre, rather than the underlying zoning of one (1) unit per 2.5 to 5.0-acres.

Deep Creek Estates is adjacent to Multiple-Use Lifeline Trails along Deep Creek and Tussing Ranch Roads and installation of these trails would be required with development of a typical subdivision. If the property were subdivided and maintained a zoning designation to allow equestrian uses, local interior streets would also be required to provide trails in accordance with the Multiple-Use Recreation Trail standards. The site consists of an approximately ten (10)-acre

drainage easement that bisects the property from the southeast to the northwest corner. A typical subdivision would be required to install drainage improvements and maintain a natural appearance of the drainage easement, with approval of a final drainage plan. However, Deep Creek Estates is proposing two (2) parks that may not otherwise be provided with development of a typical eighty-seven (87) lot subdivision. In either situation, Quimby fees would be collected in accordance with the Town's ordinance. It is important to note that the Deep Creek Estates Specific Plan does not exceed normal standard Development Code requirements other than the two (2) park sites as proposed.

The applicant, Mr. DeFazio, stated at the January 16<sup>th</sup> meeting, that he had designed two (2) parks for the project and has four and one-half (4-½) acres of equestrian trails, including interior trails. He also stated he agreed to eighty-three (83) lots instead of eighty-seven (87) lots. Although, Mr. Defazio stated he would agree to an eighty-three (83) lot subdivision instead of the original eighty-seven (87) lots, which was presented to the Commission at the January 16<sup>th</sup> meeting, a revised TTM, reflecting eighty-three (83) lots was not submitted to the Planning Division for review and distribution.

Mr. DeFazio also stated that the project is adjacent to the Jess Ranch Specific Plan and the Cooper Home and that the equestrian trails would be an asset to the community. The TTM shows five (5) lots adjacent to the Jess Ranch Specific Plan and eight (8) lots adjacent to Cooper Home property. The Cooper Home is currently operating as a large residential care facility, located on a portion of the forty (40)-acre parcel, at the southwest boundary of the Deep Creek Estates Specific Plan site. The property is within the R-LD land use designation and the R-A zoning designation. In accordance with the Planning Commission's direction, the lots along this southwest boundary should be increased in size as a transitional density buffer. Tentative Tract Map No. 16922 shows lots along this southwestern boundary with 18,000 to 24,474 square foot lot sizes.

The Council amended the Development Code to require tracts of single-family residential dwellings to front on local streets and that subdivisions adjacent to local road rights-of-way should not have perimeter walls adjacent to local road rights-of-way. This amendment only allows perimeter walls on major and secondary roads. Walls and fencing are prominent visual elements of a community and special attention is necessary to achieve a community character that complements the natural open spaces and existing neighborhoods adjacent to Solera (Jess Ranch). Solid walls will be utilized at rear, side and corner lots for screening and/or noise mitigation, where necessary, and have a maximum height of six (6) feet except for noise attenuation areas. The applicant provided an acoustical analysis that identifies exterior and interior noise exposure and the necessary mitigation measures. Among the mitigation measures is the requirement for a six (6)-foot six (6)-inch high sound barrier along Tussing Ranch Road and a minimum five (5)-foot high sound barrier along Deep Creek Road. Deep Creek Road is an established truck route within the Town and it can be expected that this roadway will be well-traveled. Therefore, it should not be possible to front the homes onto Tussing Ranch Road or Deep Creek Road.

To an extent, the range of critical elements contained in a specific plan is left to the discretion of the decision-making body. However, all specific plans, must comply with Sections 65450 - 65457 of the Government Code which require that a specific plan be consistent with the adopted general plan of the jurisdiction within which it is located. The specific plan represents a good tool for developing a community's "sense of place." A creative and innovative specific plan may bridge-the-gap between monotonous urban development and a livable neighborhood.



Specific plans should also ensure orderly and thorough planning and review procedures that will result in quality urban design; encourage variety and avoid monotony in developments by allowing greater freedom in selecting the means to provide access, light, open space, and amenities; encourage allocation and improvement of common open space in residential areas, and provide for maintenance of the open space at the expense of those directly benefiting from it; and encourage the assembly of properties that might otherwise be developed in unrelated increments to the detriment of surrounding neighborhoods. The Deep Creek Estates Specific Plan is presented without the modifications recommended by staff and as directed by the Planning Commission at its October 17, 2007 meeting and does not conform to the Code's Specific Plan requirements.

### **Summary:**

The Specific Plan as submitted is not consistent with, and complementary to, an integrated, internally consistent and compatible statement of policies for the Town's General Plan. The subject property is suitable for development and the single-family land use is compatible with the surrounding low density residential neighborhoods as proposed. However, the Specific Plan, as proposed, is not complimentary to the area and provides no uniqueness to the area that could not be otherwise achieved through a tract map. The only amenity that differs from a typical tract map is the addition of two (2) proposed parks, which staff finds to be insufficient in size. The proposed Specific Plan and Tentative Tract Map lack details necessary to assure the project meets the development standards envisioned for this area. The overall amenity package that is offered is insufficient and, rather than a viable Specific Plan application, the project appears to be a typical subdivision. In addition to increasing park size and associated amenities, the Commission requested that the project provide a minimum lot size of one (1)-acre for the project.

Although, at its meeting of January 16, 2008, the Planning Commission voted 2-2 on a motion to approve the project, a majority of three (3) votes is required for approval of a General Plan Amendment, Zone Change or Specific Plan. A 2-2 vote results in a denial of the subject applications. As a result, Planning Commission Resolution No. 2007-028 recommends denial of General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan 2004-002 and Tentative Tract Map No. 16922, forwarding a recommendation that the Town Council find that the proposed General Plan Amendment, Zone Change, Specific Plan and Tentative Tract Map are inconsistent with the Goals and Policies of the Town of Apple Valley adopted General Plan and cannot support the required positive findings for approval and recommends denial of Specific Plan No. 2004-002 on Assessor Parcel Numbers 0434-201-14 and -48.

### **Attachments:**

9. Draft Town Council Resolution No. 2008-\_\_\_\_\_ for denial
  10. Planning Commission Resolution No. 2007-028
  11. Recommended Modifications of Specific Plan
  12. Planning Commission staff reports for October 17, 2007 and January 16, 2008.
  13. TTM No. 16922 Conditions of Approval.
  14. Planning Commission Minute Excerpts for October 17, 2007 and January 16, 2008.
- Deep Creek Estates Specific Plan (separate handout)  
Tentative Tract Map No. 16922 (full size map)

**TOWN COUNCIL RESOLUTION NO. 2008-\_\_\_\_\_**

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, DENYING GENERAL PLAN AMENDMENT NO. 2004-002 TO CHANGE THE GENERAL PLAN LAND USE DESIGNATION FROM RESIDENTIAL LOW DENSITY (R-LD), ONE (1) DWELLING UNIT PER 2.5 TO 5.0 ACRES TO SPECIFIC PLAN (S-P); AND DENIAL OF ZONE CHANGE NO. 2004-002 TO CHANGE THE ZONING DESIGNATION FROM RESIDENTIAL AGRICULTURE (R-A), ONE (1) DWELLING PER 2.5 TO 5.0 ACRE, ZONE DESIGNATION TO SPECIFIC PLAN (S-P) ZONE DESIGNATION; AND DENYING PROPOSED SPECIFIC PLAN, “DEEP CREEK ESTATES” THAT INCLUDES EIGHTY (80) ACRES OF SINGLE-FAMILY RESIDENTIAL AND RESIDENTIAL EQUESTRIAN, ONE (1) DWELLING UNIT PER MINIMUM HALF (½)-ACRE LOTS WITH SOME ONE (1) ACRE LOTS; AND FURTHER RECOMMENDS DENIAL OF TENTATIVE TRACT MAP NO. 16922; GENERALLY LOCATED AT THE NORTHWEST CORNER OF TUSSING RANCH ROAD AND DEEP CREEK ROAD; SECTION 7, TOWNSHIP 4 NORTH, RANGE 3 WEST OF SAN BERNARDINO MERIDIAN; APNS 0434-201-14 and -48;**

**WHEREAS**, the Town of Apple Valley General Plan was adopted by the Town Council on October 27, 1998; and

**WHEREAS**, Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley was adopted by the Town Council on October 24, 2000; and

**WHEREAS**, Title 9 (Development Code), including Chapter 9.03 *Specific Plans*, has been utilized to adopt one or more Specific Plans by the Town Council on the recommendation of the Planning Commission; and

**WHEREAS**, a Specific Plan (“Deep Creek Estates”) has been proposed for two (2) parcels generally located at the northwest corner of Tussing Ranch and Deep Creek Roads, Section 7, Township 4 North, Range 3 West of San Bernardino Meridian (APNs 0434-201-14 and -48); and

**WHEREAS**, on March 21, 2008, proposed General Plan Amendment No. 2004-002, Zone Change No, 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922 were duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

**WHEREAS**, based upon the State Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15270, that a project which is denied by the Town is Exempt from CEQA, and

**WHEREAS**, on April 22, 2008 the Town Council of the Town of Apple Valley conducted a duly noticed and advertised public hearing on General Plan Amendment No. 2004-002, Zone Change No, 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922, receiving testimony from the public and adopting Findings to deny the project and adopting Town Council Resolution No. 2008-\_\_\_\_, and

*June 4, 2008 Planning Commission Meeting*

**WHEREAS**, proposed General Plan Amendment No. 2004-002, Zone Change No, 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922 are inconsistent with Town of Apple Valley General Plan and Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley and will be detrimental to the health, safety and general welfare of the citizens of the Town of Apple Valley.

**WHEREAS**, the Town Council conducted a duly noticed public hearing on April 22, 2008, and heard all testimony of any person wishing to speak on the issue and considered the written recommendation of the planning Commission on the matter.

**NOW, THEREFORE, BE IT RESOLVED, THAT, IN CONSIDERATION OF THE EVIDENCE RECEIVED AT THE PUBLIC HEARING, AND FOR THE REASONS DISCUSSED BY THE TOWN COUNCIL AT SAID HEARING, THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA DETERMINES AS FOLLOWS:**

**Section 1.** The Town Council of the Town of Apple Valley, California, finds that the proposed General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922 are inconsistent with the Goals and Policies of the Town of Apple Valley adopted General Plan, and in consideration of the evidence received at the public hearings, adopt the negative comments for the required Findings in the Staff Reports for the October 17, 2007 and January 16, 2008 Planning Commission Meetings, which do not support the required positive findings for approval, and based upon those said negative findings, deny General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922 as shown as the attached Exhibit A and incorporated herein by reference.

**Section 2.** Effective Date. This Resolution shall become effective immediately upon adoption by the Town Council of the Town of Apple Valley.

Adopted by the Town Council and signed by the Mayor and attested to by the Town Clerk this 22<sup>nd</sup> day of April 2008.

\_\_\_\_\_  
Honorable Timothy Jasper, Mayor

ATTEST:

\_\_\_\_\_  
Ms. La Vonda M. Pearson, Town Clerk

# Existing General Plan Land Use

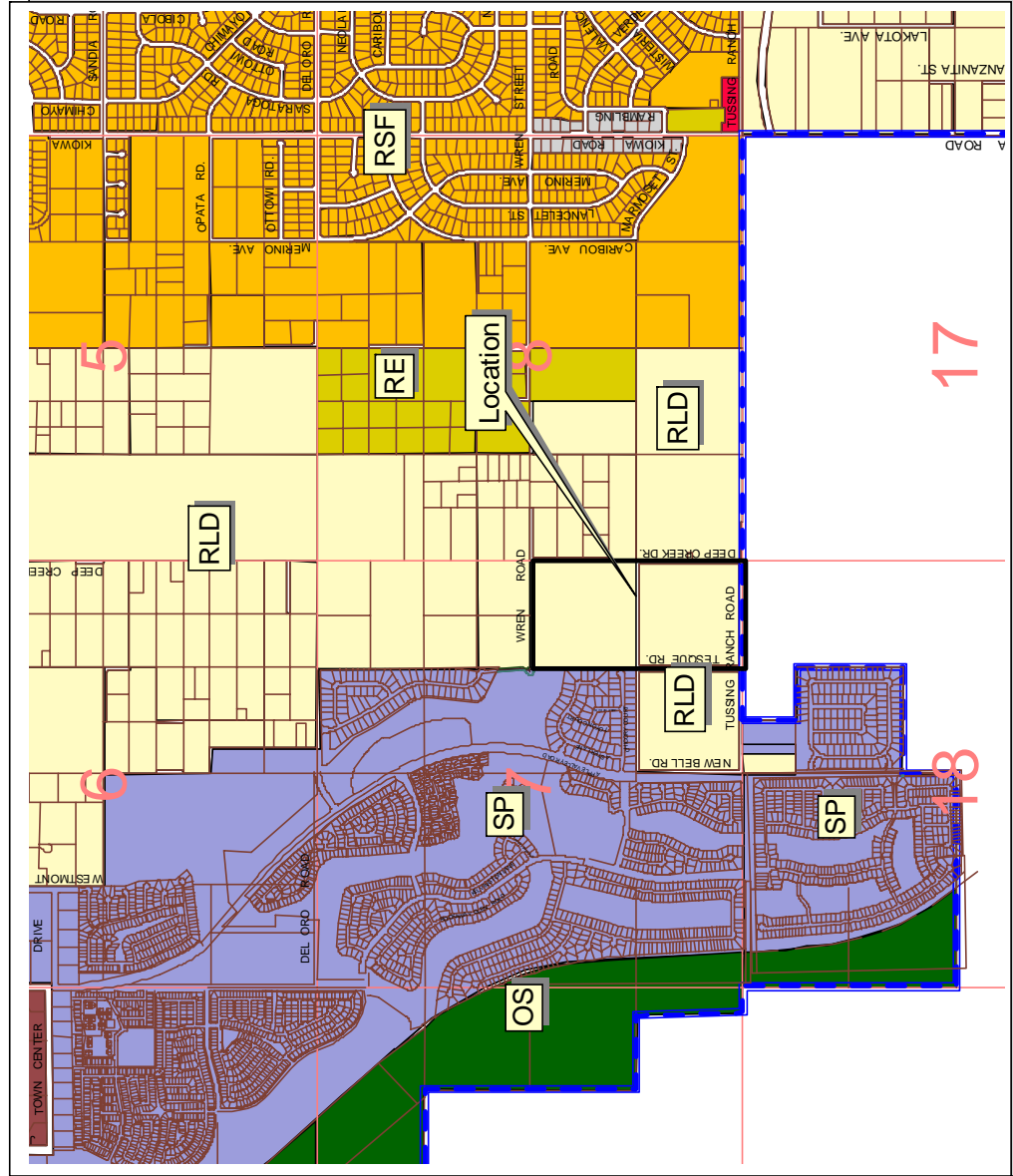
# Deep Creek Estates General Plan Amendment No. 2004-002

The approximately eighty (80)-acre project area is located at the northwest corner of Deep Creek and Tussing Ranch Roads.

APNs 0434-201-14 and -48.

**Land Use Designations**

- OS Open Space
- RLD Low Density Residential (1DU per 2.5 Gross Acres)
- RE Estate Residential (1DU per 1 to 2.5 Gross Acres)
- RSF Single-Family Residential (1DU per 0.4 to 0.9 Net Acre)
- SP Specific Plan



October 17, 2007

**PLANNING COMMISSION RESOLUTION NO. 2007- 028**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMENDING THAT THE TOWN COUNCIL DENY THE SPECIFIC PLAN NO. 2004-002. THE SPECIFIC PLAN, "DEEP CREEK ESTATES" INCLUDES EIGHTY (80) ACRES OF SINGLE-FAMILY RESIDENTIAL AND RESIDENTIAL EQUESTRIAN, ONE (1) DWELLING UNIT PER MINIMUM HALF (1/2)-ACRE LOTS WITH SOME MINIMUM ONE (1) ACRE LOTS; FURTHER RECOMMENDING DENIAL OF GENERAL PLAN AMENDMENT 2004-002 TO CHANGE FROM THE GENERAL PLAN LAND USE DESIGNATION OF RESIDENTIAL LOW DENSITY (R-LD), ONE (1) DWELLING UNIT PER 2.5 TO 5.0 ACRES TO SPECIFIC PLAN (S-P) AND RECOMMENDS DENIAL OF ZONE CHANGE FROM RESIDENTIAL AGRICULTURE (R-A), ONE (1) DWELLING PER 2.5 TO 5.0 ACRE, ZONE DESIGNATION TO SPECIFIC PLAN (S-P) ZONE DESIGNATION OF AN EIGHTY (80) ACRE PARCEL GENERALLY LOCATED AT THE NORTHWEST CORNER OF TUSSING RANCH ROAD AND DEEP CREEK ROAD; SECTION 7, TOWNSHIP 4 NORTH, RANGE 3 WEST OF SAN BERNARDINO MERIDIAN; APNS 0434-201-14 and -48; AND RECOMMENDS DENIAL OF TENTATIVE TRACT MAP NO. 16922.**

**WHEREAS**, the Town of Apple Valley General Plan was adopted by the Town Council on October 27, 1998; and

**WHEREAS**, the Town of Apple Valley General Plan has been previously amended by the Town Council on the recommendation of the Planning Commission; and

**WHEREAS**, Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley was adopted by the Town Council on October 24, 2000; and

**WHEREAS**, Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley has been previously amended by the Town Council on the recommendation of the Planning Commission; and

**WHEREAS**, specific changes are proposed to the Land Use Element of the adopted General Plan of the Town of Apple Valley by amending the Land Use Designation for parcels generally located on a site bordered on the north by Wren Road, on the south by Tussing Ranch Road and on the east by Deep Creek Road. APNs 0434-201-14 and -48 (Exhibit A); and

**WHEREAS**, specific changes are proposed to Chapter 9.05, Section 9.05.040 "Adoption of the Official Zoning Districts Map" of Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley by amending the zoning designation of parcels generally located on a site bordered on the north by Wren Road, on the south by Tussing Ranch Road and on the east by Deep Creek Road. APNs 0434-201-14 and -48 (Exhibit A);

**WHEREAS**, on, September 21, 2007, General Plan Amendment and Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922; were duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

**WHEREAS**, based upon the State Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15270, that a project which is denied by the Town is Exempt from CEQA, and

**WHEREAS**, on October 17, 2007 and January 16, 2008, the Planning Commission of the Town of Apple Valley conducted duly noticed and advertised public hearings on General Plan Amendment and Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922, receiving testimony from the public; and

**WHEREAS**, the proposed General Plan Amendment and Zone Change No. 2004-002, Specific Plan No. 2004-002 (Exhibit B) and Tentative Tract Map No. 16922 (Exhibit C) are inconsistent with Town of Apple Valley General Plan and Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley and will be detrimental to the health, safety and general welfare of the citizens of the Town of Apple Valley.

**NOW, THEREFORE, BE IT RESOLVED**, that in consideration of the evidence presented at the public hearing, and for the reasons discussed by the Commissioners at said hearing, the Planning Commission of the Town of Apple Valley, California, finds and determines as follows and recommends that the Town Council make the following findings and take the following actions:

**Section 1.** Based upon the information contained within the Initial Study prepared in conformance with the State Guidelines to Implement the California Environmental Quality Act (CEQA), and in accordance with Section 15270, that denial of General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922, determines that the proposal is Exempt from CEQA.

**Section 2.** In consideration of the evidence received at the public hearing, and for the reasons discussed by the Commissioners at said hearings, the Planning Commission of the Town of Apple Valley, California, finds that General Plan Amendment and Zone Change No. 2004-002, Specific Plan No. 2004-002 (Exhibit B) and Tentative Tract Map No. 16922 (Exhibit C) are inconsistent with the Goals and Policies of the Town of Apple Valley adopted General Plan, adopt the required negative comments and findings recommended in the Staff Report for denial, and based upon those said negative findings, deny General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922.

Approved and adopted by the Planning Commission of the Town of Apple Valley this 16<sup>th</sup> day of January, 2008.

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David Hernandez, Chairman

*Specific Plan No. 2004-002, General Plan Amendment , Zone Change No. 2004-002 and Tentative Tract Map No. 16922*

*June 4, 2008 Planning Commission Meeting*

ATTEST:

I, Patty Hevle, 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 16<sup>th</sup> day of January, 2008, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

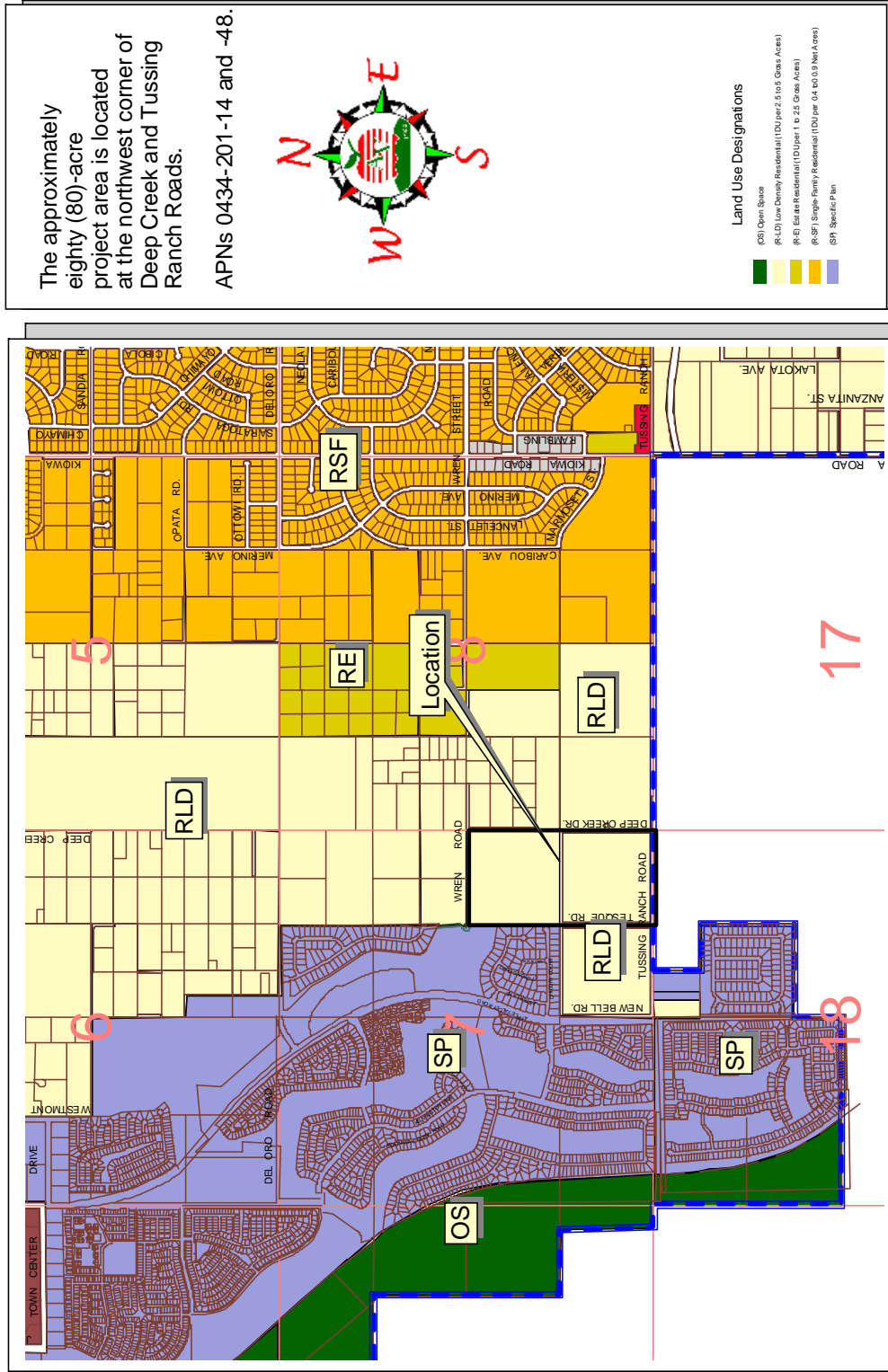
ABSTAIN:

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Patty Hevle, Planning Commission Secretary

Exhibit "A" - Existing General Plan

Existing General Plan Land Use  
 Deep Creek Estates  
 General Plan Amendment No. 2004-002



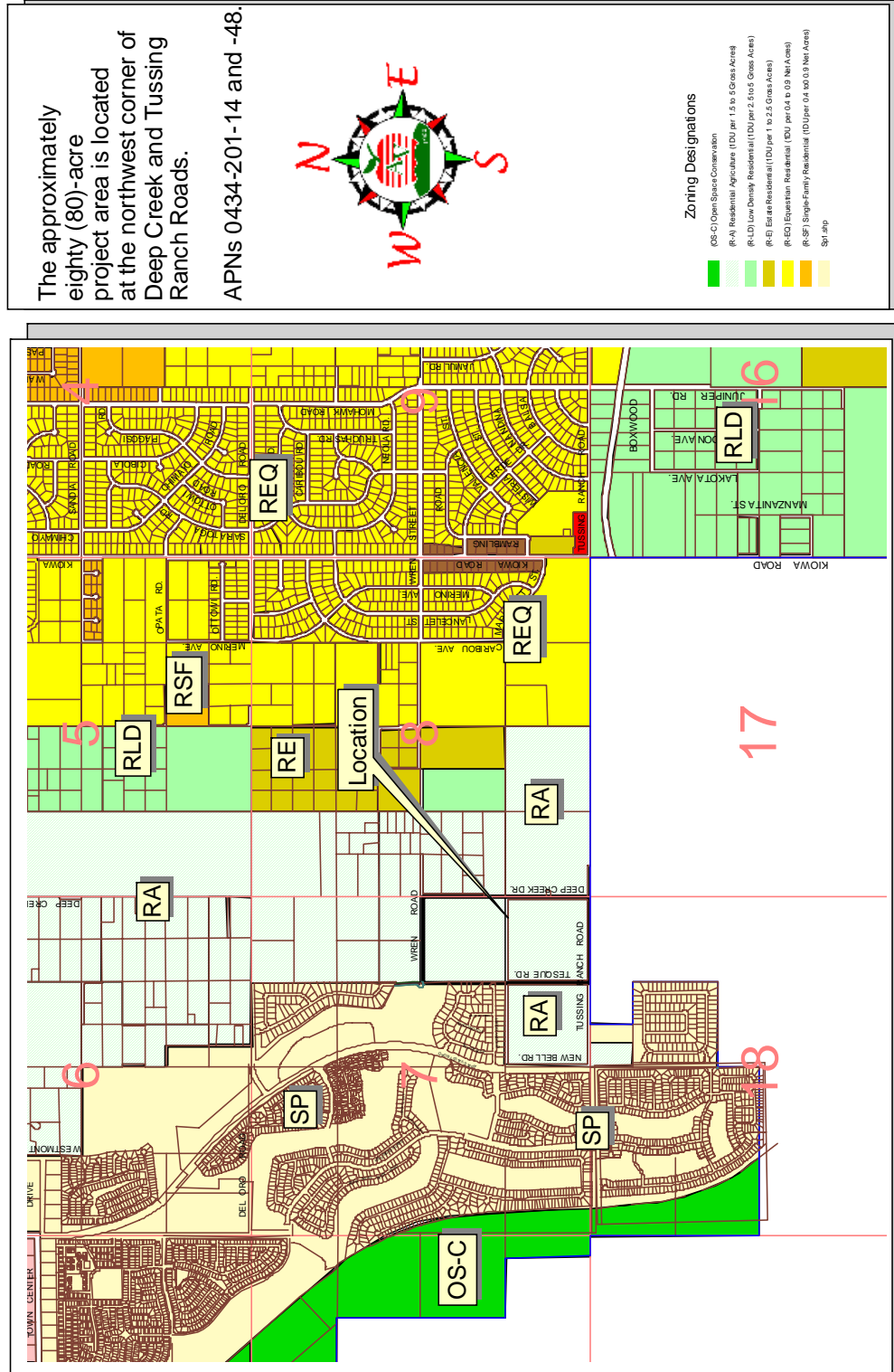
October 17, 2007



Exhibit "A" – Existing Zoning

Existing Zoning Designation

Deep Creek Estates Zone Change No. 2004-002

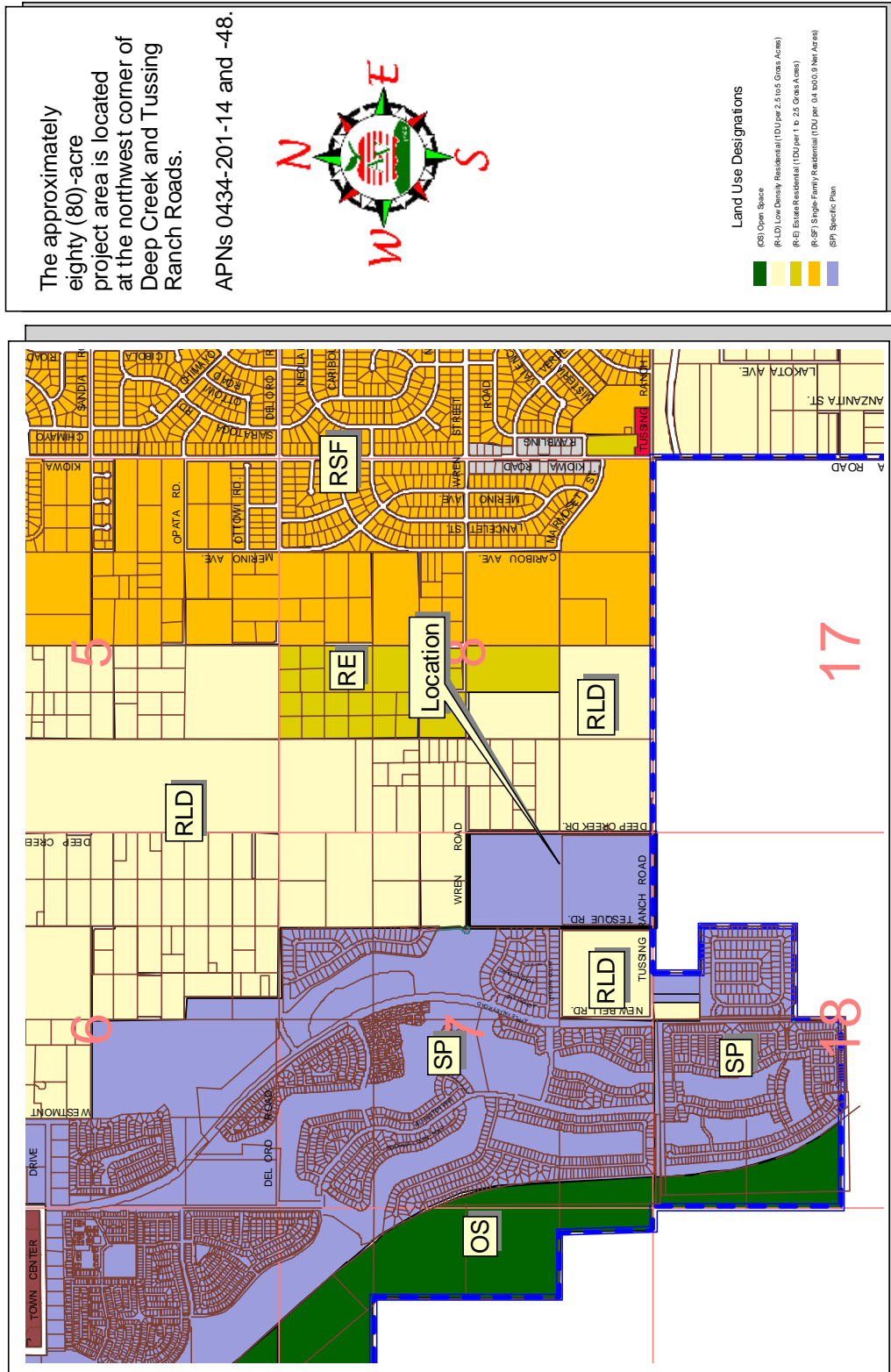


October 17, 2007



Exhibit "B" - Proposed General Plan

Proposed General Plan Land Use  
 Deep Creek Estates  
 General Plan Amendment No. 2004-002



October 17, 2007



### Attachment No. 3

#### Recommended Modifications to Specific Plan:

1. Reduce the length of River Vista Road (cul-de-sac) and combine lots on the southeast portion to create one (1) or two (2) larger parks of one (1) acre minimum lot size with better and functional amenities for all the Deep Creek residents. (Note: The Planning Commission and Town Council need to determine the larger park areas). The two (2) parks will contain benches and will be fully landscaped including tree shading (*The applicant is not in agreement with this item*).
2. Reduce the impact of the sound attenuation wall (Tussing Ranch Road) with enhanced wall design and materials, including texture and detailing and changes in wall heights and extensive landscaping (*The applicant is in agreement with this item, but it is not shown in the Specific Plan*).

Exhibit 4-5 shows the conceptual Wall & Fence Plan but contains incorrect heights for the walls along Tussing Ranch and Deep Creek Roads. The applicant submitted a Perimeter Wall/Fence Exhibit at the December 19<sup>th</sup> meeting, but the exhibit does not reflect enhanced wall design and details.

3. Landscaped areas:
  - a. Parkway street trees shall be a minimum of 24-inch box container size.
  - b. Street trees outside perimeter walls shall be a minimum of 24-inch boxed sized trees. Additional perimeter wall trees shall be a combination of 24-inch box and 15-gallon sizes trees.
  - c. Entrance trees shall be a combination of 24-inch, 36-inch and 48-inch box container size.
  - d. All landscaped areas shall be planted with sufficient 5-gallon shrubs and 1-gallon and smaller ground covers to create thick landscaping in accordance with the Town's Landscape Ordinance. Shrubs and ground covers shall be emphasized outside perimeter walls and at project entry points.

Dense Drought tolerant landscaping, per the Town's Landscape Ordinance shall be emphasized outside the perimeter walls, at project entry points, along the meandering trail/pedestrian paths and other highly visible landscaped common areas. All landscape area plant type, size and spacing shall be determined by the Director of Economic and Community Development (*The applicant is in agreement with this item and is generally depicted as Exhibit 5-2A and 2B*).

4. All sidewalks should be six (6) feet wide, except Tussing Ranch Road, which shall be in conformance with the General Plan Circulation Element (*The applicant is in agreement with this item and is shown on the TTM and Exhibit 5-2*).
5. The retention basin (Exhibit No. 6-1B - Lot "B") will be ~~densely~~ planted with native plantings in groups of three (3) and five (5) in accordance with the Town's Landscape Ordinance. The slopes and bottom of the basin will be hydroseeded with native grasses and other native ground covers (*The applicant is in agreement with this item, but is not shown in the Specific Plan*).

6. Require that the Joshua Tree maintenance and monitoring program specify which Joshua Trees will be preserved in the project area in accordance with the site's Joshua preservation survey (*The applicant is in agreement with this item, briefly explained in 4.4.1 and 7.5.3, but is not sufficiently detailed in the Specific Plan*).
7. The Homeowner's Association (HOA) shall be created to fund and manage a high level of maintenance at all times of the landscaping, structures and other facilities it is responsible for (*The applicant is in agreement with this item, depicted in Exhibit 7-1, but it is not thoroughly described in the Specific Plan*).
8. Redesign the Drainage Easement/Recreation Trail channel to create a more natural look by including greater landscaping with sufficient trees and shrubs to create a fully landscaped channel and use creative grading and rocks to both create a more natural look and to slow storm water runoff. This will be subject to the final drainage plan, as approved by the Town Engineer (*The applicant is in agreement with this item but is not shown in the Specific Plan*).
9. Redesign the "Open Space Easement – No Structures" area to include the residual property shown on the rear/side of Lot Nos. 24 to 36 (*The applicant is in agreement with this item, and is shown on revised TTM and Exhibit 4-3*).
10. On Exhibit No. 7-1, the Phasing Plan should be numbered with appropriate phase numbers. Staff recommends that on Page 7-6, the paragraph under "Phase – Neighborhood Equestrian Area" should be deleted. The improvements on River Vista Road are required under Planning and Engineering Conditions of Approval with TTM No. 16922 (*The applicant is in agreement with this item and submitted a revised phasing plan at the 10/17/07 PC meeting*).
11. Revise the development standards to not allow the further division of the perimeter one (1)-acre minimum buffer lots (*added by PC at 10/17/07 meeting*).



**Agenda Item No. 2**

**TOWN OF APPLE VALLEY  
PLANNING COMMISSION**

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**STAFF REPORT**

<b>AGENDA DATE:</b>	January 16, 2008 (Cont'd from 10/17/07 & 12/5/07)
<b>CASE NUMBER:</b>	General Plan Amendment/Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922
<b>APPLICANT:</b>	Carl Coleman of Altec Engineering, Corp
<b>PROPOSAL:</b>	This is a request for approval of a General Plan Amendment to change the current Land Use designation of Residential Low Density (R-LD, 1 dwelling unit per 2.5 to 5.0 gross acres) to Specific Plan (S-P) and a Zone Change from the current Residential Agriculture (R-A, 1 dwelling unit per 2.5 to 5.0 gross acres) Zoning designation to Specific Plan (S-P) Zoning designation. Assuming approval of GPA/ZNC No. 2004-002, the applicant has requested to subdivide the total eighty (80) gross acre site, under Tentative Tract Map No. 16922, into eighty-seven (87) single family lots. All lots are single-family residential and will range from 18,000 square feet to one (1)-acre in size.
<b>LOCATION:</b>	The approximately eighty (80)-acre project area is located at the northwest corner of Deep Creek and Tussing Ranch Roads; APNs 0434-201-14 and -48.
<b>ENVIRONMENTAL DETERMINATION:</b>	Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA) a Mitigated Negative Declaration has been prepared.
<b>CASE PLANNER:</b>	Ms. Becky Reynolds, Principal Planner
<b>RECOMMENDATION:</b>	Denial

## **BACKGROUND**

The project was reviewed by the Planning Commission at the October 17, 2007 Planning Commission meeting. Following review of the information within the staff report, applicant comments, public input and discussion amongst the Commissioners, the Commission made a motion to continue the project to the December 5, 2007 Planning Commission meeting. The continuance was based upon direction to the applicant to make the modifications to the Specific Plan recommended by staff and the comments made by the Planning Commission at the public hearing. At the October 17<sup>th</sup> public hearing, Vice-Chairman Tinsley felt the project had issues that needed to be resolved between the applicant and staff. Chairman Hernandez indicated that if the applicant was not willing to increase lot sizes, that a continuance to December would just be postponing the issue at hand. He stated his opposition to a continuance.

At the October 17, 2007 Planning Commission meeting the Commission directed that the applicant modify the Specific Plan as recommended by staff and to increase lot sizes to one (1)-acre minimum. This would also include reducing the length of River Vista Road (cul-de-sac) and combine lots on the southeast portion to create one (1) or two (2) larger parks of one (1)-acre minimum lot size with better and functional amenities.

Staff met with the applicant(s) on October 29, 2007 to review the proposed modifications and corrections of the Deep Creek Estates Specific Plan and Staff Report. The applicant was informed that the project could be considered at the December 5, 2007 Planning Commission meeting, if changes were made and resubmitted to the Town by November 21, 2007. The project was not resubmitted in a timely manner therefore, at the December 5<sup>th</sup> meeting, the project was continued to the January 16, 2008 Planning Commission meeting.

Staff met with the applicants on December 19, 2007 to review the status of the project and resubmittal timelines for the 2008 General Plan Amendments. At the December 19<sup>th</sup> meeting, the applicants stated that the park areas would not be increased and that lot sizes would not be increased, both of which were recommended by staff and the Planning Commission. Staff indicated that if the project was not modified as recommended by staff and as directed by the Planning Commission, the project would go forward with a recommendation of denial. The applicant agreed to move forward with the project. The Specific Plan and Tentative Tract Map were not submitted in a timely manner, therefore, the Specific Plan under consideration is still the original plan presented to the Planning Commission at the October 17<sup>th</sup> meeting without recommended changes. Staff is recommending denial of GPA/ZNC No. 2004-002, Specific Plan No. 2004-002 and TTM No. 16922. The original staff report is attached for reference.

## **FINDINGS FOR DENIAL**

In considering any General Plan Amendment or Zone Change, the Council and Commission are required by the Municipal Code to make specific Findings. The following are the Findings for a General Plan Amendment required under Section 9.02.050 H 3 of the Development Code, with a comment to address each:

### **General Plan Amendment**

4. The proposed General Plan amendment is consistent with the goals, policies and standards of all elements of the General Plan and will further those goals, policies and standards;



Comment: The proposed General Plan Amendment is inconsistent with, and does not further the Goals and Policies of the General Plan Land Use Element and will not further their implementation. The subject property is suitable for development, although the proposed land uses are not complementary to the surrounding low density residential neighborhoods as proposed. The proposed Specific Plan and Tentative Tract Map lacks details necessary to assure the project meets the development standards envisioned for this project.

5. The General Plan, as amended, will comprise an integrated, internally consistent and compatible statement of policies for the Town;

Comment: The request is inconsistent with the General Plan goals, policies and standards and the General Plan Land Use Policies Map. As proposed, the project is inconsistent with the established development pattern and development standards in the area. The proposed project is not consistent with and complementary to, an integrated, internally consistent and compatible statement of policies for the Town's General Plan.

6. The General Plan amendment furthers the public interest and promotes the general welfare of the Town by providing for a logical pattern of land uses and clarifying various land use policies for the Town.

Comment: The proposed change to the Land Use Element of the adopted Town of Apple Valley General Plan does not further the public interest and the general welfare of the Town. As proposed, the project is inconsistent with the established development pattern and development standards in the area. The proposed project is not consistent with and complementary to, an integrated, internally consistent and compatible statement of policies for the Town's General Plan.

Development Code section 9.06.060 requires the following findings be made in order to approve Zone Change Amendments to the Development Code:

2. The proposed amendment is consistent with the General Plan.

Comment: The proposed project is inconsistent with the goals, policies and standards of all of the General Plan Elements. The project is not compatible with the character of the surrounding rural residential neighborhood. The required neighborhood parks will not provide adequate amenities to be beneficial to the residential neighborhood, unless the Specific Plan is modified as directed by the Planning Commission.

2. The proposed amendment will not be detrimental to the public health, safety or welfare of the Town or its residents.

Comment: The request will adversely affect the health, peace or comfort of persons residing in the area and will be detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, and may constitute a menace to the general welfare. The required

neighborhood parks are not adequate in size and amenities that will be beneficial to the residential neighborhood if it is located and designed according to sound planning principles. The applicant has not demonstrated that the general welfare and convenience would be furthered by the subject request. Approving the request as proposed will set an undesirable precedent that will encourage similar incompatible development adjacent to these rural residential neighborhoods.

Development Code section 9.03.040 requires that the following findings be made in order to approve a Specific Plan:

G. The proposed specific plan meets all of the following content criteria:

1. Specifies through text and/or diagrams, the distribution, location and extent of the uses of land, including open space, within the area covered by the plan.

Comment: The proposed Specific Plan specifies with text and diagrams the distribution, location and amount of land uses, however, the specific plan does not include adequate open space, park sites and amenities.

2. Specifies through text and/or diagrams, the proposed distribution, location and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid-waste disposal, energy and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan.

Comment: The proposed specific plan specifies through text and diagrams the proposed distribution, location and extent of major onsite public facilities and services, including transportation, sewage, water, drainage, energy and other essential services needed to support the plan's land uses. Proposed roads described in the text are illustrated with a plan view map and road cross sections.

3. Specifies through text and/or diagrams, the standards and criteria by which development will proceed, and standards for the conservation, development and utilization of natural resources, where applicable.

Comment: The proposal, through text, diagrams and photographs, specifies the standards and criteria by which development would proceed and natural resources will be preserved, managed and utilized in the designated Open Space (OS) area with the proposed recreation/equestrian trail and drainage. However, the designated Open Space and Drainage Easement does not have a natural appearance with adjacent areas and does not relate to the desert environment by implementing xeriscape landscaping requirements, the use of water-conserving irrigation, and retention of the existing bluffs through grading for individual lots, rather than mass grading.

4. Specifies a program of implementation measures, including regulations, programs, public works projects, and financing measures necessary to carry out Findings A.1, A.2 and A.3 above.

Comment: The specific plan includes implementation procedures, a development phasing schedule, possible financial mechanisms and Homeowners' Association (HOA) maintenance responsibilities for street parkways, multi-use trails, bikeways, park, landscaped areas and drainage systems. The phasing schedule calls for the project to be constructed in three (3) phases, beginning from the north. Tentative Tract Map No. 16922 is filed concurrently with the various phases.

5. Includes a statement of the relationship of the specific plan to the General Plan, Development Code and other applicable plan or ordinance.

Comment: The Specific Plan contains a chapter on the purpose and authority of the Specific Plan under California Government Code, Sections 65450 through 65454, including content requirements. This chapter also includes the Specific Plan's relationship to the Town's General Plan, Vision 2010, and the Development Code (Zoning Ordinance and Subdivision Ordinance).

6. Addresses any other subjects that are necessary for implementation of the General Plan.

Comment: The project would be sequential development adjacent to the approved Jess Ranch Specific Plan to the northwest.

- H. The location and design of the proposed development will be consistent with the goals and policies of the General Plan and with any other applicable plan or policies adopted by the Town and with any other applicable provisions of the Development Code.

Comment: The Specific Plan's location and design is inconsistent with the General Plan goals and policies as well as applicable Development Code provisions.

- I. The proposed location will allow the development to be well integrated with or adequately buffered from its surroundings, whichever may be appropriate.

Comment: The Specific Plan preserves and provides access to the site, but does not provide appropriate design standards, minimum of one (1)-acre lots, setbacks and landscaping in order to buffer the proposed development from the surrounding existing and anticipated rural residential neighborhoods.

- J. All vehicular traffic generated by the development, either in phased increments or at full build-out, will be accommodated safely and without causing significantly increased congestion upon adjoining streets.

Comment: Based on a Traffic Study, the Specific Plan specifies appropriate traffic mitigation measures, including the extension of roads to support the project's development phases and maintain the LOS C at all Town of Apple Valley intersections.

- K. The final specific plan will identify a methodology to allow land uses to be adequately serviced by existing or proposed public facilities and services. In appropriate

circumstances, and as provided elsewhere by this Development Code, the Town may require that suitable areas be reserved for uses such as schools, parks and pedestrian ways; public open spaces may be dedicated or reserved by private covenant for the common use of residents, establishments or operations in the development.

Comment: The Specific Plan includes conceptual plans for circulation, trails, open space and landscaping, water, wastewater, and drainage as well as an infrastructure phasing plan. A Homeowner's Association (HOA) will be responsible for the landscaping and related maintenance in the rights-of-way and other common areas, the trails, trail fencing, walkways and drainage facilities.

- F. In accordance with the requirements of the California Environmental Quality Act (CEQA), environmental impacts have been reduced to a level of insignificance, or in the case where such impacts remain; a statement of overriding considerations must be adopted to justify the merits of project implementation after certification of the Environmental Impact Report.

Comment: The project could have a significant effect on the environment, because revisions in the project have not been made by, or agreed to, by the applicant.

- G. The proposed specific plan should contribute to a balance of land uses so that local residents may work and shop in the community in which they live.

Comment: The project is a proposed residential Specific Plan and will not provide the residents of Deep Creek Estates adequate recreational amenities within the project boundaries.

- I. The proposed specific plan will not be detrimental to the public health, safety or welfare of the Town.

Comment: The specific plan is inconsistent with the General Plan and Development Code and will be detrimental to the public health, safety or welfare of the Town. The project is adjacent to Tussing Ranch, Deep Creek, and Wren Roads and with the proposed setbacks and landscaping will not provide adequate buffering to be compatible with the surrounding area.

#### Denial Tentative Tract Map Findings

~~As required under Section 9.71.040 (A.5) of the Development Code, prior to approval/denial of a Tentative Tract Map, the Planning Commission must make four (4) Findings. The Findings, as well as a comment to address each, are presented below.~~

- ~~1. The proposed Subdivision, together with the provisions for its design and improvement, is consistent with the General Plan and any applicable Specific Plan. The proposed subdivision, or land use, is compatible with the objectives, policies, general land uses and programs specified in the General Plan and any applicable Specific Plan (Subdivision Map Act 66473.5).~~

~~Comment: This is a proposal to subdivide the approximately eighty (80)-acre property into eighty-seven (87) single family lots. Several of the lots are~~

~~less than one (1) acre lot area which is in conflict with direction by the Planning Commission to increase lots sizes to one (1) acre minimum and will be inconsistent with the goals and policies of the General Plan. The Specific Plan land use designation of R-EQ promotes equestrian and animal keeping within a rural atmosphere however, the subject property also consists of a Residential Single Family (R-SF) land use designation and, by size, shape and configuration, will not have the ability to be used in a manner consistent with the General Plan and Specific Plan.~~

- ~~2. The Planning Commission has considered the effects of its action upon the housing needs of the region and has balanced these needs against the public service needs of its residents and available fiscal and environmental resources (Subdivision Map Act Section 66412.3).~~

~~Comment: The proposal consists of a land subdivision, located on a proposed residentially designated Specific Plan for the purpose of future residential development at the minimum lot size allowed by the underlying land use. No houses are being removed and housing needs will not be negatively impacted.~~

- ~~3. The design of the subdivision provides, to the extent feasible, for the future passive or natural heating or cooling opportunities in the subdivision.~~

~~Comment: The lots created under this subdivision are appropriate in size to provide natural heating and cooling opportunities for development of the site. As development occurs, the individual lots are subject to the implementation of natural heating and cooling requirements pursuant to Title 24 energy requirements.~~

- ~~4. The Planning Commission shall determine whether the discharge of waste from the proposed subdivision into the existing sewer system would result in a violation of the requirements as set forth in Section 13000 et seq., of the California Water Code. If the Planning Commission finds that the proposed waste discharge would result in, or add to, a violation of said requirement, the Planning Commission may disapprove the subdivision (Subdivision Map Act Section 66474.6).~~

~~Comment: The project is a residential land subdivision and is required to connect to the Town of Apple Valley sewer system, and requires approval of the Town of Apple Valley Public Works Division in order to meet the requirements of the Town.~~

### **Mandatory Denial of Tentative Maps (66474)**

As required under Section 9.71.040 (A.6) of the Development Code, the Tentative Map shall be denied by the Planning Commission if **any** of the following findings are made:

1. That the proposed subdivision is not consistent with the General Plan or any applicable Specific Plan.

Comment: This is a proposal to subdivide the approximately eighty (80)-acre property into eighty-seven (87) single-family lots. The subject property is

suitable for development, although the proposed land uses are not complementary to the surrounding low density residential neighborhoods as proposed. The proposed Tentative Tract Map lacks details necessary to assure the project meets the development standards envisioned for this project. Several of the lots are less than one (1) acre lot area which is in conflict with direction by the Planning Commission to modify the Specific Plan and increase lots sizes to one (1)-acre minimum.

2. That the design or improvement of the proposed subdivision is not consistent with the General Plan or any applicable Specific Plan.

Comment: This is a proposal to subdivide the approximately eighty (80)-acre property into eighty-seven (87) single-family lots. Several of the lots are less than one (1) acre lot area which is in conflict with direction by the Planning Commission to modify the Specific Plan and increase lots sizes to one (1)-acre minimum and will be inconsistent with the goals and policies of the General Plan.

3. That the site is not physically suitable for the proposed type of development.

Comment: This is a proposal to subdivide the approximately eighty (80)-acre property into eighty-seven (87) single-family lots. The project is split topographically by a bluff that runs generally from southeast to northwest with areas of fifteen percent (15%) or greater slopes. The subject property is suitable for development, although the proposed land uses are not complementary to the surrounding low density residential neighborhoods as proposed. Several of the lots are less than one (1) acre lot size which is in conflict with direction by the Planning Commission to modify the Specific Plan and increase lots sizes to one (1)-acre minimum therefore, will not be compatible with the surrounding rural neighborhood area and will be inconsistent with the goals and policies of the General Plan.

4. That the site is not physically suitable for the proposed density of development.

Comment: This is a proposal to subdivide the approximately eighty (80)-acre property into eighty-seven (87) single-family lots. The subject property is suitable for development, although the proposed land uses are not complementary to the surrounding low density residential neighborhoods as proposed. Several of the lots are less than one (1) acre lot area which is in conflict with direction by the Planning Commission to modify the Specific Plan an increase lots sizes to one (1)-acre minimum and increase the area of the park sites, therefore, the project will not provide adequate buffering and will not be compatible with the surrounding rural neighborhood area.

5. That the design of the proposed subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

Comment: Based upon the information contained within the Initial Study prepared in conformance with the State Guidelines to Implement the California Environmental Quality Act (CEQA) and in accordance with Section 15270, the proposal has the potential to significantly impact the environment.

6. That the design of the proposed subdivision or the type of proposed improvements is likely to cause serious public health or safety problems.

Comment: The proposed Tentative Tract Map No. 16922 is not consistent with Town of Apple Valley General Plan and Development Code of the Town of Apple Valley and will not promote the health, safety and general welfare of the citizens of the Town of Apple Valley. The required neighborhood parks are not adequate in size and amenities that will be beneficial to the residential neighborhood if it is located and designed according to sound planning principles. The applicant has not demonstrated that the general welfare and convenience would be furthered by the subject request. The project is adjacent to Tussing Ranch, Deep Creek, and Wren Roads and with the proposed lot sizes, setbacks and landscaping will not provide adequate buffering to be compatible with the surrounding rural area.

7. That the design of the proposed subdivision or the type of proposed improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision or with public access to public resources as defined and regulated by Section 66478.1 et seq., of the Subdivision Map Act. In this connection, the Planning Commission may approve a Tentative Map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to the ones previously acquired by the public.

Comment: The design of the proposed subdivision and the type of proposed improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision or with public access to public resources as defined and regulated by Section 66478.1 et seq., of the Subdivision Map Act.

8. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction; no authority is hereby granted to the Planning Commission to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

Comment: The proposal consists of a land subdivision located on vacant, residentially designated land for the purpose of future residential development. This subdivision will not affect easements of record or to easements established by judgment of a court of competent jurisdiction;

therefore, no authority is hereby granted to the Planning Commission to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

9. That the design of the proposed subdivision does not provide to the extent feasible for future passive or natural heating or cooling opportunities pursuant to Section 66473.1 of the Subdivision Map Act.

Comment: The lots created under this subdivision are appropriate in size to provide natural heating and cooling opportunities for development of the site. Any future development is subject to the implementation of natural heating and cooling requirements pursuant to Title 24 energy requirements.

10. That the Planning Commission has not considered the effect of its action on the housing needs of the region or has not balanced those needs against the public service needs of its residents and available fiscal and environmental resources with favorable results pursuant to Section 66412.3 of the Subdivision Map Act.

Comment: The proposal consists of a proposed land subdivision located on vacant, residentially designated land for the purpose of future residential development. The denial of the proposed Tentative Tract Map will not effect the Planning Commission's action on the housing needs of the region and those needs against the public service needs of its residents and available fiscal and environmental resources with favorable results pursuant to Section 66412.3 of the Subdivision Map Act.

## **RECOMMENDATION**

Based upon the information contained within this report, and any input received from the public at the hearing, it is recommended that the Planning Commission adopt the attached Planning Commission Resolution No. 2007-028, which recommends that the Town Council deny the General Plan Land Use Element Amendment from Residential Low Density (R-LD) to Specific Plan and Zone Change for the subject site from Residential Agriculture (R-A) to Specific Plan.

1. Determine, that based on the Negative Comments and Findings for Denial, the proposed General Plan Amendment and Zone Change are inconsistent with the Goals and Policies of the General Plan and has the potential to negatively impact the adjacent low density residential neighborhoods.
- ~~2. Find, that pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15270, that a project which is denied is Exempt from CEQA. on the basis of the whole record before the Planning Commission, including the Initial Study and any comments received, the project has the potential to significantly impact land use and planning factors and therefore, cannot adopt the Mitigated Negative Declaration and that this determination reflects the Town's independent judgment and analysis. The Initial Study is available at the Town's Planning Division which constitutes the record of proceedings upon which its decision is based.~~



3. Find that certain facts/comments presented in the staff report do not support the required Findings for approval and adopt those Comments/Findings for Denial.
4. Adopt Planning Commission Resolution No. 2007-028 forwarding to the Town Council a recommendation for denial of General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922. This includes a recommendation to deny the amendment to the General Plan Land Use designation and rezoning from Residential Low Density (R-LD) to Specific Plan (S-P) land use designation and from Residential-Agriculture (R-A) to Specific Plan (SP) zoning district in accordance with Exhibits A & B of Planning Commission Resolution No. 2007-028 and recommend denial of the "Deep Creek Estates" Specific Plan.
- ~~5. Deny General Plan Amendment No. 2004-002, changing the existing land use designation of Residential Low Density (R-LD) to Specific Plan (S-P).~~
- ~~6. Deny Zone Change No. 2004-002, changing the existing zoning designation of Agriculture Residential (R-A) to Specific Plan (S-P).~~
- ~~7. Deny Specific Plan No. 2004-002, a proposal to develop the property for single family residential uses.~~
- ~~8. Deny Tentative Tract Map No. 16922, a request to subdivide the eighty (80)-acre site into eighty-seven (87) single-family lots.~~

**Prepared By:**

**Reviewed By:**

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Becky Reynolds  
Principal Planner

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Lori Lamson  
Assistant Director of Community Development

**ATTACHMENTS**

1. Vicinity map
2. Tentative Tract Map No. 16922 (reduced copy)
3. Proposed Specific Plan Land Use/Site map
4. Existing and Proposed General Plan and Zoning Maps
5. Planning Commission Resolution No. 2007-028
  - Exhibit A - Proposed and Existing General Plan maps with property description
  - Exhibit B - TTM No. 16922
6. Minute Excerpt from October 17, 2007 Planning Commission Meeting



## TOWN OF APPLE VALLEY PLANNING COMMISSION

### STAFF REPORT

<b>AGENDA DATE:</b>	October 17, 2007
<b>CASE NUMBER:</b>	General Plan Amendment/Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922
<b>APPLICANT:</b>	Carl Coleman of Altec Engineering, Corp
<b>PROPOSAL:</b>	This is a request for approval of a General Plan Amendment to change the current Land Use designation of Residential Low Density (R-LD, 1 dwelling unit per 2.5 to 5.0 gross acres) to Specific Plan (S-P) and a Zone Change from the current Residential Agriculture (R-A, 1 dwelling unit per 2.5 to 5.0 gross acres) Zoning designation to Specific Plan (S-P) Zoning designation. Assuming approval of GPA/ZNC No. 2004-002, the applicant has requested to subdivide the total eighty (80) gross acre site, under Tentative Tract Map No. 16922, into eighty-seven (87) single family lots. All lots are single-family residential and will range from 18,000 square feet to one (1)-acre in size.
<b>LOCATION:</b>	The approximately eighty (80)-acre project area is located at the northwest corner of Deep Creek and Tussing Ranch Roads; APNs 0434-201-14 and -48.
<b>ENVIRONMENTAL DETERMINATION:</b>	Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA) a Mitigated Negative Declaration has been prepared.
<b>CASE PLANNER:</b>	Ms. Becky Reynolds, Principal Planner
<b>RECOMMENDATION:</b>	Approval.

## PROJECT AND SITE DESCRIPTION

### A. Proposed Project and Location

The applicant is requesting a General Plan Amendment and Zone Change No. 2004-002 from Residential Low Density (R-LD, one (1) dwelling per 2.5 to 5.0 acres) to Specific Plan (S-P) in order that the Deep Creek Estates Specific Plan conforms to the Town's General Plan and Zoning Map. The existing zoning (Attachment No. 4) will allow approximately thirty-two (32) dwelling units (80 acres divided by 2.5 acres) and eighty-seven (87) dwelling units are proposed for this property under TTM No. 16922, which is an increase in overall density. In accordance with the Town's General Plan Policy No. LU 6.2, in order to increase the density of property within the Deep Creek area, a Specific Plan is required.

The project site consists of two (2) separate forty (40)-acre parcels. This proposal will accommodate a maximum of eighty-seven (87) single-family lots consisting of one-half (½)-acre lots and one (1)-acre lot. The applicant's proposed Specific Plan is enclosed separately in the Planning Commission agenda packet. (Note: exhibit references such as Exhibit 3-1 refer to exhibits in the Specific Plan).

The Deep Creek Estates Specific Plan proposed land use designations are Single-Family Residential (R-SF) one-half (1/2)-acre lots, Equestrian Residential (R-EQ) from 18,000 – 57,665 square foot lots with an average of 27,683 square feet and 10.69 acres of Open Space (O-S).

The Town Council has directed that each General Plan Amendment, Zone Change and Specific Plan application is to be reviewed on a case-by-case basis with consideration of whether a specific project is to accompany the application. The applicant has submitted a Specific Plan that proposes single-family residential densities, open space, design guidelines, landscape concept, recreational amenities, an equestrian trail and major roads. The development intensity represents the optimum scale based on market factors and development standards identified in this Specific Plan.

### B. General Plan Designations

Project Site - Residential Low Density (R-LD)

Proposed - Specific Plan (S-P)

North - Residential Low Density (R-LD)

South - San Bernardino County AG-SCP (Town Sphere of Influence)

East - Residential Low Density (R-LD)

West - Residential Low Density and Jess Ranch Planned Unit Development

### C. Surrounding Zoning and Land Use

Project Site – Residential Agriculture (R-A); Vacant

Proposed - Specific Plan (S-P)

North – Residential Agriculture (R-A); Vacant

South – San Bernardino County AG-SCP (Town Sphere of Influence), Scattered Single-Family residences

East – Residential Low Density (R-LD), Vacant

West – Residential Low Density (R-LD) and Jess Ranch Specific Plan (S-P), Single Family Residential residences and Cooper Home

D. Project History

This project was originally submitted in 2004 for a GPA/ZNC and Tentative Tract Map applications. However, upon review of the General Plan Land Use policies, the subject area is identified as the 'Deep Creek Area' and General Plan Land Use **Policy LU-6.2** states that

*“The Town will encourage 2.5 acre minimum lots in areas which have historically been used for agriculture. Increases in density in the Deep Creek Area shall require the preparation of a specific plan. Development in this area should be clustered maintaining to the maximum extent feasible the rural character of the site. The specific plan shall address in detail the provision of adequate infrastructure and services, including circulation, as well as compatibility with agricultural uses in the vicinity and the development’s relationship to adjacent properties”*

The applicant submitted Specific Plan No. 2004-002 for the proposed single-family residential development on the eighty (80)-acre site. The project will accommodate a maximum of eighty-seven (87) residential units. The Deep Creek Estates is located in a Residential Low Density (R-LD) General Plan land use designation area and is consistent with provisions of the General Plan. Section 9.03.020 “*General Plan Consistency*” of the Town’s Development Code authorizes Specific Plan consideration and approval with a General Plan Amendment.

Development Code Section 9.03.020 “*General Plan Consistency*” states as follows:

*“The General Plan provides for the adoption of specific plans in the Community Reserve land use areas as well as other areas where remoteness, environmental constraints or unique land use concerns require specific land use and/or design controls. All specific plans shall be consistent with the provisions of the adopted General Plan. Any proposed specific plan , which is not consistent with the existing adopted General Plan designation, may only be adopted concurrent with the adoption of the appropriate amendments to the General Plan necessary to maintain consistency.”*

Based on the Town Council’s direction to staff and the General Plan Goals and Policies, staff informed the applicant that the Town expects Deep Creek Estates to include a number of large lots, along with special design features and amenities necessary to meet the General Plan and Development Code requirements for Specific Plans. Initially, staff also suggested that the Deep Creek Estates Specific Plan be redesigned in order to be sensitive to the distinctive qualities of the desert site and equestrian lifestyle. The applicant re-designed the map with larger lots, increased park area and reversed the lots along Sierra Vista Drive to face a “scenic drive” (local road) adjacent to the drainage easement/recreation trail.

The applicant was also advised to hold public community meetings for the purpose to gather information and input from area land owners and residents for preparation of the Specific Plan now under consideration.

E. Site Characteristics

The Specific Plan area is vacant land with scattered native vegetation, including 513 Joshua Trees. Topographically, the property consists of a flat lower section with bluff areas rising to the east and then gently sloping areas, all with sandy loam alluvium soils. The project is basically split topographically by the bluff that runs generally from southeast to northwest. The lowest portion of the site is located at the northeast corner of the property with an elevation of

approximately 2,850 feet above Mean Sea Level (MSL); the highest portion is located at the top of a ridgeline in the southeastern corner with elevation of approximately 2,913 feet above MSL. The existing site is heavily impacted by Off Highway Vehicles (OHV) trails along the bluffs that appear to be in continual erosion due to the sandy loam soils and with fifteen percent (15%) or greater slopes.

A Jurisdictional Delineation Report dated August 14, 2007 was submitted to the Town. This report found the site contains one (1) identified “Blue Line” stream on the USGS Quad sheet that ends within the property boundary, and is a “surface water driven ephemeral stream” and, therefore, considered to not be “Waters of the U.S.” per criteria of the Army Corp of Engineers (ACOE).

Regional access to the Specific Plan area is provided by Tussing Ranch Road to the south and Deep Creek Road via Bear Valley Road. Deep Creek Estates is contiguous with the northwest tip of the Jess Ranch Specific Plan area. The nearest existing residences are located along Tussing Ranch Road to the south and the adjacent Jess Ranch PUD to the northwest.

The site is shown on the “Important Farmland in California Map as “Other land which does not meet the criteria of any other category”. There are currently no agricultural operations being conducted on the project site. Considerable land preparation and irrigation system construction would be necessary to utilize the site for agricultural purposes.

F. Related Action

As mentioned above, to the northwest of the subject site is the Jess Ranch Planned Unit Development (PUD), a Specific Plan that was adopted in 1984 that consists of approximately 1,447 acres generally located on both sides of Apple Valley Road, south of Bear Valley Road, and along the easterly bank of the Mojave River. The Jess Ranch PUD allows for the development of a variety of residential, agricultural and commercial uses. The Jess Ranch PUD residential development is proposed to include approximately 4,700 units consisting of approximately 4,000 single-family and multi-family age-restricted (senior citizen) housing units on the west side of Apple Valley Road and approximately 700 non-age-restricted single-family housing units on the east side of Apple Valley Road. All properties within the PUD are within the S-P, Specific Plan Zoning District. Due to the project’s close proximity to each other, The Deep Creek Estates will extend and connect to existing infrastructure that exists with the development of Jess Ranch PUD to complete infrastructure improvements to the advantage of this development.

G. Relationship between a General Plan, Specific Plan and Zoning

Specific plans effectively establish a link between implementing policies of the Town’s General Plan and the individual development proposals in a defined area. A Specific Plan establishes the planning concepts, design and development guidelines and administrative procedures to carry out development of the Specific Plan area. Specific Plans involve comprehensive site planning, including sensitive integration of open space and development areas. Infrastructure planning and creative design approaches are emphasized. Typically, developers are provided flexibility to respond to market changes and communities gain higher quality development.

Specific Plans are authorized by State Government Code Sections 65450-65457; the Town’s General Plan authorizes and provides Specific Plan policy direction and is also authorized by the Town’s Development Code, Chapter 9.03. *Specific Plans*.

A Specific Plan works in connection with the zoning ordinance (Town's Development Code), although it provides complementary design and development guidelines and zoning related requirements based on the Specific Plan's design concepts. The Development Code usually is relied upon for parking and height restrictions; whereas, the Specific Plan provides standards for streetscapes, architecture and other design oriented matters.

The General Plan contains many goals and policies relating to urban expansion, land use, circulation, housing, open space and conservation, park, safety and public facilities. The project is consistent with the Town Council's 2010 long term vision for Apple Valley to continue as an up-scale community with a high-quality residential character.

The Residential Low Density (R-LD) General Plan land use designation allows residential densities not to exceed one (1) dwelling unit per 2.5 to 5.0 per gross acre unless a Specific Plan is adopted. The residential development proposed would have a larger number of units than the maximum densities permitted under the current General Plan Land Use designation, but would be permitted with the adoption of a Specific Plan. The Specific Plan guides development and allows for development that addresses the needs of the area under this designation.

**ANALYSIS:**

A. Development Timing

The Deep Creek Estates Specific Plan is well timed and consistent with the following General Plan Land Use Element goals and policies relating to development proposals:

- |               |  |
|---------------|--|
| GOAL LU-2     | The Town will manage growth in an orderly manner in accordance with a long range plan which protects and enhances community values, and which does not exceed the provisions of requisite facilities and services. |
| Policy LU-2.1 | Development is encouraged to occur in a sequential manner, adjacent to previously developed areas and in ways which allow for clear linkages to circulation and infrastructure systems.                            |

The Deep Creek Estates Specific Plan is contiguous to an existing Specific Plan to the northwest and, therefore, from a development contiguity standpoint, is consistent with the General Plan's goals and policies and is not a speculative project (Attachment No. 3 - Land Use Map). Sewer and water capacity is available and lines can be readily extended to The Deep Creek Estates. Access is provided from Deep Creek and Wren Roads, which are both paved roads. Tussing Ranch Road is currently improved to the east of Deep Creek Road but is unimproved to the west of the site . Once improved, it will ultimately link to Jess Ranch PUD.

Tentative Tract Map: The proposed Tentative Tract Map will subdivide approximately eighty (80) gross acres into eighty-seven (87) single-family residential lots. If approved, the proposed subdivision will need to comply with the site development standards within the Specific Plan's Residential Single-Family (R-SF) and Equestrian Residential (R-EQ) land use designations. These land uses are separated to allow equestrian and non-equestrian residents to choose neighborhoods that promote their respective lifestyles (See Exhibit 4-1 for "Typical Lot Standards").

The R-SF and R-EQ designations set minimum property size standards for land uses that require a minimum lot size of 0.4 acre (18,000 square feet), minimum lot width of 100 feet and a minimum lot depth of 150 feet. The proposed map will create eighty-seven (87) single-family residential lots, with a minimum lot size of 18,000 square feet, and that are in conformance with the minimum site development standards as identified in the Development Code.

The proposed subdivision is designed in a manner that creates reverse frontage lots along Tussing Ranch Road. The proposed lots will have frontage along a cul-de-sac and rear yards that abut Tussing Ranch Road. Tussing Ranch Road is designated a Major Divided Arterial within the General Plan's Circulation Element. In accordance with the Noise Element of the General Plan, impacts are anticipated along this corridor. The applicant has provided an acoustical analysis that identifies exterior and interior noise exposure and the necessary mitigation measures. Among the mitigation measures is the requirement for a six (6)-foot six (6)-inch high sound barrier along Tussing Ranch Road. Therefore, it would not be possible to front the homes onto Tussing Ranch Road. In accordance with the required cross-section for a Major Divided Arterial, the applicant will be required to provide a fourteen (14)-foot wide landscape easement along Tussing Ranch Road in addition to the sound attenuation wall (Condition No. P10).

Staff recommended a larger park area (Lot "A") could result from the shortening of the cul-de-sac (River Vista) by combining lots on the southeast area to create a larger park area with better and functional amenities for all the Deep Creek residents. The applicant indicated that this area will be mass graded and preferred view lots that would be located at the end of the cul-de-sac.

The TTM shows the "Open Space Easement - No Structures" area with residual property on the rear of Lot Nos. 24 to 36 that is not included in the easement area. Staff is recommending that the Specific Plan modifications (Exhibit C) include the residual property of each lot within the easement area, which would eliminate any potential confusion on the use of those small areas.

### Phasing

The Deep Creek Estates Phasing Program is described in Section 7.3, Phasing Concept. Due to the existing road improvements, changes in topography and other site constraints, the site has three (3) phases as follows:

- L. Phase 1 - R-EQ one (1) acre lots along the northern boundary (Lots 1-7) because of the existing road improvements.
- Phase 2 - The remainder of the R-EQ Lots (Lots 8-42).
- Phase 3 - R-SF lots (Lots 43-87).

Phase No. 1 consists of one (1) acre lots adjacent to the northern boundary of the R-EQ land use designation adjacent to Wren Road. This phase supports the Residential Equestrian Designation, which will begin the incremental development along an existing paved road with two-points of access (Wren Street), as required by the Town of Apple Valley and the Apple Valley Fire Protection District.

Phase No. 2 consists of Lot Nos. 8 through 42 and supports the Residential Equestrian Designation and will complete the incremental development of the Residential Equestrian area for the Specific Plan. This phase will initiate the reconstruction of the Deep Creek and Tussing Ranch Roads intersection and will not require the "Drainage and Recreational Trail" improvements along the western boundary of Phase No. 2. Lot Nos. 26 thru 32, inclusively, will be mass graded with the lowering of the Deep Creek Road and Tussing Ranch Road intersection, as required by the Town Engineer. Staff recommends completion of the park (Lot "A") at the time of Final Occupancy of Lot No. 26 (Condition No. 34)

Phase No. 3 consists of all of the R-SF lots. This phase supports the Single-Family Designation and will complete the development from the adjacent neighborhood to the west (Solera) and will

require the "Drainage and Recreational Trail Easement" improvements along the boundary of Phase 2.

Multi-Use and Equestrian Lifeline Trails within street right-of-ways shall be constructed concurrent with the complete build-out of the adjacent street and parkway improvements of each subject street, per the Conceptual Trail System Plan (Exhibit 5-3) and Phasing Plan (Exhibit 7-1). Any improvements along River Vista Road shall be completed concurrently with ,and prior to, the Certificate of Occupancy of the adjacent lot (Lot No. 26). Improvements may include additional split rail fencing for horse training and/or horse showing (Condition No. P32).

Mass grading is not proposed for Phase Nos. 1 and 2 of the Specific Plan Area to allow for individualized custom home designs. Mass grading will be required for Phase No. 3 due to significant drainage area improvements. Deep Creek Road and Tussing Ranch Road intersection improvements will require significant grading improvements due to sight-distance issues and is shown on Exhibit 5-1 – Conceptual Circulation Plan.

#### Homeowner's Association (HOA)

The applicant is required to establish the Deep Creek Estates Homeowners' Association (HOA) for maintenance of all common areas included within the Specific Plan. The required Conditions, Covenants and Restrictions (CC&Rs) will implement the development standards, private uses and maintenance program for each land use area within the Specific Plan.

All common areas, as called out on each subsequent Tentative Tract Map, will be maintained by an established Homeowners' Association (HOA). The HOA will be formed to provide for the maintenance of slope areas not located within individual lots; parkways and median(s); multi-use trails; storm drain facilities that may include surface drains, detention basins, debris basins, stormwater pollution control devices and other appurtenances; neighborhood park, private equestrian facilities, and other landscaping, irrigation, and improvements in designated common areas.

The establishment of CC&Rs will identify the duties and costs associated with short and long-term maintenance and operation of street parkways, common areas and facilities within and adjacent to the subject development. Condition of Approval Nos. P22 and P23 are recommended to address this requirement.

This Specific Plan would be excluded from the Hillside Subdivision Ordinance requirements because it does not meet the definitions in the Hillside Subdivision Section 9.71.060. However, the Specific Plan does have bluffs with fifteen percent (15%) or greater slopes and intends on protecting these bluffs being currently used for Off Highway Vehicle (OHV) purposes. The Specific Plan proposes slope easements to limit use over the majority of the slopes over fifteen percent (15%) and, specifically, with slopes over thirty percent (30%) (Lots 24 thru 34 on the Tentative Tract Map No. 16922). The site has 5.16 acres (2.28 acres of 15%-30% and 2.88 acres of thirty percent (30%) or greater slopes) of land with a slope of fifteen (15%) or greater, excluding the perimeter street (Tussing Ranch, Deep Creek and Wren) areas and within the proposed R-EQ zoning designation. The development of the site will place these bluffs in the ownership of individual homeowners and will provide a level of protection to these bluffs that has not been occurring to the present time, thereby improving the existing conditions of the site.

The Open Space area shown on the map does not have the potential of being subdivided and is shown on the map as "Open Space Easement No Structures". The designated O-S land use



designation does not allow residential units and requires that the open space lots be maintained by a Homeowner's Association (HOA).

The lots located along the Drainage/Recreation Easement are over 30,000 square feet in size that contain hillsides of fifteen percent (15%) and can be graded for a residential house pad that will accommodate development on the lower slopes of the hillside, while protecting the area's natural character, resources and aesthetic value.

Staff has determined that the proposal is consistent with the General Plan goals and policies, calling for orderly and sequential development, with linked circulation and infrastructure systems and, therefore, is appropriate at this time.

**B. Land use and residential density**

The eighty (80)-acre project's General Plan land use designation is Residential Low Density (R-LD), which includes the approximately ten (10)-acre drainage easement that bisects the property from the southeast to the northwest corner. Therefore, the site, under the present zone designation, may be subdivided into approximately thirty-two (32) 2.5-acre single-family residential lots. This, however, is unlikely given the site's topography and low demand for 2.5-acre home sites.

Approximately forty-three (43) acres of the total approximately eighty (80) residential acres are provided as Equestrian Residential. These lots shall have a minimum size of 20,000 square feet (net) in size. These lots are generally located in the east portion of the Specific Plan to support a cohesive equestrian environment. Residential characteristics are the same as the Single-Family Residential areas except the equestrian designated areas allow for the boarding of horses. The trail system and abutting land uses enable a mixture of housing types that offer diversity in streetscapes and character. Uses permitted within this designation are referenced in Table 4-2.

A total of approximately twenty-seven (27) acres of approximately eighty (80) residential acres are provided as Single-Family Residential. These lots are at least 18,000 square feet in size. These lots are generally located in the west portion of the Specific Plan Area. The Single Family Residential area is separated from the Equestrian Residential area by the drainage and recreation trail easements. Residential characteristics are the same as the Equestrian Residential areas except this designation does not support the boarding of horses. The trail system and abutting land uses enable a mixture of housing types that offer diversity in streetscapes and character.

Approximately 13.52+/- acres of open space type uses (easements on lots) are designated within the Specific Plan Area via the drainage area and equestrian/recreation trails (See Exhibit 4-3, Conceptual Open Space & Recreation Plan).

Development Code 9.03.060 E (p.11) states: "To assure that open space is provided within Specific Plan Areas, public and open space sites shall be dedicated in advance of development (prior to issuance of building permits) whenever such dedication is so required, even in those cases when a subdivision map is not required..."

The following Table provides the land uses proposed with the Deep Creek Estates Specific Plan.

**Table 4-1B**

**Actual Proposed per Tentative Tract Submittal**

**Land Use Statistical Summary**

<b>Land Use<sup>1</sup></b>	<b>Gross Acres</b>	<b>Proposed Units<sup>2</sup></b>	<b>Proposed Residential Density</b>
<b>R-EQ</b> (Equestrian Residential) Slope area 15% or greater	42.9 5.16	42	0.98 du/ac 1.11 du/ac <sup>4</sup>
<b>R-SF</b> (Single-Family Residential)	27.2	45	1.65 du/ac
<b>OS</b> (Equestrian Area/Open Space)	10.7	0	N/A
<b>Total</b>	<b>80.75</b>	<b>87</b>	<b>1.07 Overall<sup>3</sup></b>

Footnotes

<sup>1</sup> For descriptions of R-EQ, R-SF, and OS Districts, refer to Sections 4.2.1 and 4.2.1 herein.

<sup>2</sup> Proposed units of the Specific Plan.

<sup>3</sup> Proposed Residential Density of the Specific Plan.

<sup>4</sup> Proposed Residential Density less Slope areas 15% or greater of the Specific Plan.

If current trends continue, there is a limited market for larger than one-half (½)-acre lots because of their added land costs and costs associated with extending roads and other necessary infrastructure. However, it is important to reserve areas for larger lots to provide a variety of residential opportunities over time.

Based on this, a portion of Deep Creek Estates is suitable for R-SF; however there should be a reasonable number of larger lots and adequate open space areas. TTM No. 16922 provides one (1) acre lots to maintain the Town's equestrian heritage and desire for a rural feeling. These lots are located on the north, south and east boundaries where there are multiple-use Lifeline Trails. Transitional density buffers consisting of larger lot sizes should be provided at the periphery of new residential subdivisions to create a density transition between the new subdivision and adjacent residential land uses of lesser density. The proposed Tentative Tract Map is designed with one (1) gross acre lots along Tussing Ranch, Deep Creek and Wren Roads which provides a streetscape of a large lot subdivision with the one-half (½)-acre lots adjacent to Jess Ranch PUD to the northwest.

As proposed, Deep Creek Estates contains approximately twenty-seven (27) acres of Single-Family Residential lots. Approximately twenty-four (24) lots are a minimum of 18,000 square feet in size and an additional eighteen (18) lots range in size from 20,000 to 43,560 square feet, with an average lot size of approximately 28,000 square feet. The remaining lots are within the R-EQ land use designation and range from 27,000 square feet to 70,238 square feet in size.

C. Development Constraints and Conservation of Natural Resources

The project site is currently located within a rural portion of the Town and, although the site has always been vacant, the Deep Creek area has traditionally been devoted to agricultural land uses. The proposed project land use is Specific Plan that allows higher density residential uses.

A cultural resource records search and field survey report for archeological and paleontological resources were conducted for the project site. A biological study analyzed flora and fauna resources. Nothing in these studies indicates a problem with developing the site consistent with the Mitigated Negative Declaration mitigation measures recommended in these reports.

Impacts to potential Burrowing Owl burrows must be avoided until authorization is obtained from California Department of Fish & Game (CDFG) and the site's 513 Joshua Trees will be protected in accordance with the Town of Apple Valley Development Code. The recommended Mitigated Negative Declaration (MND) contains specific mitigation measures relating to the protection of potential cultural and biological resources that must be followed during construction related activities.

Candidate Joshua Trees for relocation shall follow the intent of the Native Plant Ordinance of the Town of Apple Valley's Development Code. A native plan assessment was completed for this Specific Plan. The overall intent is to relocate young and healthy Joshua Trees with a high probability for survival to designated areas. The relocation activities are to be concentrated in landscape areas where appropriate, considering numerous issues to maximize survival, and to assist in the natural blending of graded and unimproved areas. Mass grading is not proposed for Phase Nos. 1 and 2 of the Specific Plan Area to allow for individualized custom home design, except for perimeter street improvement requirements. Mass grading will be required for Phase No. 3 due to drainage improvements and many existing on-site candidate Joshua Trees will be relocated to this area.

The following goals and policies of the General Plan Open Space/Conservation and Land Use Elements relate to the need for the design of Deep Creek Estates to be sensitive to its unique desert setting:

- |                 |  |
|-----------------|--|
| GOAL OSC- 1.1   | The Town will conserve and protect natural resources within the planning area.   |
| Policy OSC- 1.6 | The Town shall only allow types of development and construction practices which properly control grading and other impacts on landforms within the hill areas of Apple Valley. |
| GOAL OSC-2      | The Town will endeavor to preserve significant mature native trees, native vegetation, landforms and wildlife habitats within the planning area.                               |

- Policy OSC-2.2      The Town will encourage the planting of native species of trees and plants to enhance the environment.
- GOAL OSC-5      The Town will continue to emphasize the maintenance of, and access to, open space in the planning area.
- Policy OSC-5.1      The Town will seek to establish a balance of natural open space and improved recreational open space.
- GOAL LU-1      The Town will respect the desert environment.
- Policy LU-1.2      The Town will generally maintain natural drainage patterns as feasible, while still permitting property development and will restrict development in those areas which are subject to flooding.
- Policy LU-1.3      The Town will protect environmentally unique and fragile areas, such as those areas designated for open space and conservation. Special geologic analysis will be required in hillside areas.
- Policy LU-1.4      Land clearance on any development site should be limited to the greatest extent possible subject to grading, air quality and related.

Landscaping is proposed with a mix of drought-tolerant plants (combination of California native, desert species, and other drought-tolerant plant species) that provide ground cover for parkways and street trees helping define the neighborhoods. Due to the smaller size of this particular Specific Plan, there are no designated landscape palettes for each of the Single-Family or Equestrian Residential neighborhoods. The only specific design constraint in the neighborhoods is to have a maximum of 450 square feet of grass area in the front yard areas of each home.

D.      Specific Plan Design and Amenity Package Requirements

Specific Plan projects have a requirement for greater creativity, special design features, amenities and high quality design than for the typical Zone Change, Tentative Tract Map or Development Permit. Specific Plans must go beyond the minimum requirements in the Development Code. This is particularly the case for Deep Creek Estates, because this project occupies a site of unique scenic quality and is setting the standard and precedent for Apple Valley's future development. The objective is to make Deep Creek Estates a special and unique residential community in harmony with the desert, instead of another non-distinctive subdivision.

If Apple Valley is to be Victor Valley's premier living area of choice, then only "quality design" should be acceptable for future development projects. While this requirement can vary somewhat from area to area and on infill sites, if this vision is to be realized, there must be a consistent standard of quality design for each project.

Site planning and design - Staff pointed out to the applicant that the project site is in an area of much natural beauty and that Deep Creek Estates will be setting the standard and precedent for future development. The applicant has maintained that, since it plans to build a "lot sale" and "custom home" project that the minimum amenities are provided due to the site's topography and size of the property.

The applicant has approached the lot layout and site planning of Deep Creek Estates in a very ordinary manner. There is, however, an opportunity for Deep Creek Estates to be designed to connect more visually with the site's natural features and have more park area. The TTM shows the incorporation of the "blue line" stream that traverses the site as both visual and long term functional connections to a drainage system that is conveyed to the Jess Ranch Golf course to the northwest. The applicant has designed a drainage channel within the blue line stream. The design includes an adjoining trail; however, the drainage channel/blue line stream has a concrete rip-rap design that has a very artificial look and feel, in contrast to the site's natural, scenic beauty.

Special amenity package - The staff stressed that Deep Creek Estates must meet Specific Plan special design features an amenity package requirements to create a unique and special place. These Specific Plan design requirements far exceed normal standard Development Code requirements. Special amenity packages and high quality design require both creativity and additional costs, although this is off-set by the value added to the project.

Deep Creek Estates proposes an amenity package and design enhancements consisting of approximately 13.52+/- acres of the site that includes:

- Two (2) Life Line Equestrian Trails along Deep Creek and Tussing Ranch (1.06 acres).
- Proposes a regional drainage channel with native landscaping (8.81 acres) and trails on either side of the channel.
- Three (3) Neighborhood parks (0.96 acres, 0.27 acres and 0.65 acres)
- Onsite recreation trail easements (1.77 acres)

Deep Creek Estates incorporates two (2) neighborhood parks. A private park is located in the equestrian portion of the community and encompasses 0.96 acres. The second neighborhood park is located along Sierra Vista Drive and total 0.92 acres for private use of all residents of Deep Creek Estates and includes the following amenities:

- Eating area with 2 park benches
- 20' by 20' shading device
- Minor landscaping with native desert oriented and drought resistant
- Native vegetated detention area and Joshua tree relocation area
- A natural oriented are that will also be a "Stormwater Retention Area" and a "Joshua Tree Relocation Area".

The amenities are in exchange for the ability to develop under a Specific Plan and, in this case, build at a density of (two) 2 units to the acre, rather than the underlying zoning of one (1) unit per 2.5-acres.

#### E. Parks and Open Space

The Town has a standard, **Policy OSC-12.5**, of five (5) acres of park land per 1,000 population. On June 26, 2007, the Town Council adopted Ordinance No. 346 regarding modifications to the "Quimby Fees" section of the subdivision regulations which requires proposed single-family residential subdivisions which exceed 170 parcels (lots) to dedicate and improve park land within the development. The Ordinance requires the dedication of land at five (5) acres per 1,000 population and assumes an average population per dwelling unit of 2.95. The Quimby Act also requires provision for credits to residential developers and a formula to determine the

amount of in-lieu fees if such fees are required instead of land dedication and park construction. The proposed GPA/ZNC/SP and TTM No. 16922 provides two (2) parks and a nine (9)-acre Recreational Trail/Drainage Easement. The nine (9) acre Recreational Trail/Drainage Easement is a drainage facility; therefore, this project would be subject to Quimby fees.

Of the total eighty (80) acres within the Specific Plan Area, approximately 3.52+/-acres are natural open space type uses with easements for equestrian trails, the drainage area and 2.83 acres is designated as the private neighborhood parks (O-S). An equestrian-oriented Neighborhood Park will be located between River Vista Road and Deep Creek Road, and the other designated non-equestrian oriented neighborhood park is located along the drainage course which will be for use by residents of "Deep Creek Estates only."

A Drainage and Recreation Trail Easement will be located between the Residential Equestrian land use area, and the Residential Single-Family land use area. This area will be for use by residents of Deep Creek Estates, as well as other community members. Perimeter Recreation Trail Easements will be located along both Tussing Ranch and Deep Creek Roads for use by residents of Deep Creek Estates, as well as other community members. Multi-Use and Equestrian Trails within the Equestrian Residential area of the community are for use by the residents of "Deep Creek Estates only".

The Specific Plan is designed with two (2) parks; Lot "A" is 41,911 square feet and Lot "C" is 28,271 square feet in size. The size of each of the proposed park sites (less than one (1) acre) may inhibit the use for minimal passive recreational uses and should be increased in size to create functional recreational areas for the Deep Creek residents. This is identified as a modification to the Specific Plan (Exhibit "C").

#### F. Trails and Bikeways

The General Plan Circulation Element contains the following goals and policies pertaining to integrating equestrian, hiking and biking trails into development project washes, channels, and road rights-of-way as major elements of the Town and regional open/space recreation network:

GOAL C-5: Consider within the General Plan an area-wide system of equestrian, hiking and bicycling trails, linking to appropriate parks at existing and new developments and the trail system of other jurisdictions. Time frames for development of the system shall be linked to the development of the properties affected by the trail system. Initial emphasis shall be placed on existing trails within developed areas."

Policy C-5.1: The Town shall, as appropriate and in conjunction with fee owners, designate washes, channels, utility corridors and transportation rights-of-way as elements of the open space/recreation network. This network shall provide a link with other open spaces and recreation areas within the Town and with adjacent jurisdictions' recreation plans.

Policy C-5.2: Equestrian uses and facilities are encouraged adjacent to the lifeline trail system.

Exhibit 5-3 illustrates the locations of the proposed Deep Creek Estates trail routes. Where appropriate, concrete sidewalks within road rights-of-way provide additional pedestrian and bicycle connectivity to the Town-wide trail system. Exhibits 5-3 Flood Control Trail/Easement and 5-2A and 5-2B Meandering Trail Section depict elements of the proposed trail system.

The Town supports neighborhoods which allow for equestrian activities and encourages their expansion where appropriate. Equestrian communities and facilities are especially encouraged adjacent to the Lifeline Trail system.

Multi-Use Trails and Bikeways provided within the Specific Plan Area follow the intent of the General Plan Circulation Element and the Lifeline Equestrian Trail per the Town's General Plan. This contemplates a coordinated multi-use trail network throughout the Town and the region. Exhibit 5-3 (Conceptual Trail System Plan) illustrates the locations of the trail routes.

Concrete sidewalks within street rights-of-way and gravel surfaced multi-use trail systems allow pedestrians additional local connectivity to the regional multi-use trail system. The proposed Conceptual Trail System Plan (Exhibit 5-3) illustrates the trail classifications within Deep Creek Estates.

A perimeter recreation trail easement (Lifeline Trails) will be located along both Tussing Ranch and Deep Creek Roads. A Drainage and Recreation Trail Easement will be located between the Residential Equestrian land use designation and the Residential Single Family land use designation. This area will be for use primarily by residents of Deep Creek Estates. The TTM shows a cross section that indicates a sixty-five (65)-foot wide soft bottom with 1.5:1 sloped (concrete) rip-rap sides and a twenty (20)-foot wide recreational trail and patrol road on either side of the drainage easement. Staff recommends that the Neighborhood Recreation Trail Easements be integrated within the development located primarily along the rear of interior lots as shown on the Tentative Tract Map No. 16922 and conform to the Multi-Use Recreational Trails standards (Condition No. P33).

Because of the Town's desire to integrate natural washes and desert natural land forms and vegetation into new development projects, staff has suggested that the proposed drainage channel and trail shown on the TTM be graded and have a more natural appearance with adjacent areas to the wash and be planted with additional native type plant plantings based upon the Town Engineers determination of the final drainage study.

Perimeter walls – The Town Council has expressed concerns that subdivision perimeter walls negatively impact the Town's "open" rural atmosphere. Subsequently, the Council amended the Development Code to require tracts of single-family residential dwellings to front on local streets and that subdivisions adjacent to local road rights-of-way should not have perimeter walls adjacent to local road rights-of-way. This amendment only allows perimeter walls on major and secondary roads.

Walls and fencing are prominent visual elements of a community and special attention is necessary to achieve a community character that complements the natural open spaces and existing neighborhoods adjacent to Solera. Given the view potentials from many of the lots, a large number of the residential lots should utilize relatively open view fencing such as split rail or wrought iron along the bluffs. However, no double open character fencing will be employed

along trails and other public areas where equestrian rail type fencing does not provide adequate security to side and rear yards. Chain link fencing will not be utilized within the Specific Plan. Solid walls will be utilized at rear, side and corner lots for screening and/or noise mitigation, where necessary, and have a maximum height of six (6) feet except for noise attenuation areas. Only open rail fencing with a maximum height of forty-eight (48") shall be permitted in the front yard areas and no solid fencing shall be allowed on slopes greater than fifteen percent (15%) (refer to Exhibit 4-5) the Conceptual Perimeter Wall and Fence Plan).

The Community Entry Nodes are the three (3) primary entries into the specific plan (Deep Creek at Wren, Deep Creek at Marmoset Street and Tussing Ranch at Sierra Vista Drive) and Exhibit 4-5 depicts the equestrian trails at these three (3) locations. These locations shall also incorporate thematic elements consistent with the equestrian, semi-rural theme of the overall Deep Creek Estates community. These elements will include color-stained stamped concrete entry into the Specific Plan, sign monument at Deep Creek, Tussing Ranch and Wren Roads, earthen berms with large rocks and native landscaping at other entry nodes. They will also include equestrian rail fencing and other design elements deemed appropriate to the theme and durable during review of the final engineering plans and Landscaping Plans prior to development. Staff recommends Condition of Approval No. P24 which requires that, prior to recordation of Final Map, three (3) sets of detailed landscaping and irrigation plans for the parkway area and subdivision entrances will be required. Construction of these entry areas shall occur on or before Final Occupancy of the first home of Phase Nos. 2 and 3.

#### G. Homeowners' Association (HOA)

The applicant is required to establish the Deep Creek Estates Homeowners Association (HOA) for maintenance of all common areas included within the Specific Plan. The required Conditions, Covenants and Restrictions (CC&Rs) will implement the development standards, private uses and maintenance program for each land use area within the Specific Plan.

All common areas, as called out on each subsequent Tentative Tract Map, will be maintained by an established Homeowners' Association (HOA). The HOA will be formed to provide for the maintenance of slope areas not located within individual lots; parkways and median(s); multi-use trails; storm drain facilities that may include surface drains, detention basins, debris basins, stormwater pollution control devices and other appurtenances; neighborhood park, private equestrian facilities, and other landscaping, irrigation, and improvements in designated common areas.

The establishment of CC&Rs will identify the duties and costs associated with short and long-term maintenance and operation of street parkways, common areas and facilities within and adjacent to the subject development. Condition of Approval Nos. P22 and P23 are recommended to address this requirement.

#### H. Drainage

The project's on-site storm waters will ultimately drain to the northwest corner of the site and the proposed residential development will direct storm water via curb and gutters from the developed portion of the site to the natural drainage course and will meet the hydrology criteria as approved by the Town Engineer. Tentative Tract Map No.16922 shows the off-site natural drainage course and on-site streets that will direct storm waters to the "Drainage & Recreation Trail Easement" area. This project will meet the Town of Apple Valley criteria as approved by the Town Engineer.



## I. Traffic and Circulation

The project site is currently vacant and undeveloped. The circulation system for the Specific Plan Area provides multi-modal access, serving vehicles, bicycles, pedestrians, and equestrians. The components of the Circulation Plan are designed to provide safe and efficient access to the future residential neighborhoods, natural open space or improved drainage channel and the equestrian area. Exhibit 5-1, "Conceptual Circulation Plan," shows the location of Specific Plan Area streets. All street and roadway design plans will adhere to the required Town standards at all intersections and driveways.

Vehicular circulation to the project site will be from Tussing Ranch Road along the south, Wren Street from the north, and Deep Creek Road from the east. Deep Creek Road will provide primary access into Deep Creek Estates community from Bear Valley Road from the north and Rock Springs Road to the south. Deep Creek and Wren Roads are currently improved, but will be required to provide half-street rights-of-way, curb, gutter and sidewalks for the site. Additionally, Tussing Ranch Road which is currently unimproved, will also be required to provide half-street rights-of-way, curb, gutter and sidewalks for the southerly boundary.

Based on the Traffic Study, mitigation measures have been proposed that will bring traffic impacts to within the Town's acceptable Level of Service (LOS) C. The proposed subdivision will increase vehicle trips and traffic congestion impacts, although the impacts will be less than significant with mitigation. The development would be required to pay appropriate fair share fees for required street improvements. The applicant submitted a Traffic Study for TTM 16922. This report recommends intersection improvements that will be considered and applied to Tentative Tract Map 16922.

Development of the Specific Plan would generate 72 AM peak hour trips and 98 PM peak hour trips. It is estimated that the proposed project will generate 928 daily trips. These trips fall under the threshold requirements of the Congestion Management Programs (CMP) established by the San Bernardino County Association of Governments (SANBAG), eliminating the need for a comprehensive Traffic Impact Analysis. The Traffic Study was prepared with the original map that was designed with ninety-seven (97) lots. The revised map is designed with eighty-seven (87) lots and the traffic generation may be slightly less than indicated.

The developer is required to contribute their fair share per the Traffic Study towards the following signals: 14% to Deep Creek Road and Tussing Ranch Road, 4% to Deep Creek Road and Bear Valley Road, and 6% to Tussing Ranch Road and Kiowa Road, as recommended in the traffic study and approved by the Town Engineer. The project's fair share contribution fees are \$78,000 with traffic mitigation totaling \$315,952.

Additionally, there are three (3) existing unsignalized intersections within the vicinity of the site that may potentially be impacted by the implementation of the Specific Plan. These intersections are Bear Valley Road and Deep Creek Road; Tussing Ranch Road and Deep Creek Road and Tussing Ranch Road and Kiowa Road. However, with the future planned signalization of Bear Valley Road and Deep Creek Road and the widening of Deep Creek Road at Tussing Ranch Road to accommodate separate a left turn lane on Deep Creek Road, at the intersection of Tussing Ranch Road, all three intersections will operate at LOS "B" or better.

The intersection of Deep Creek and Tussing Ranch Roads currently consists of varying elevations that will create challenges in achieving adequate and safe site distances. The property on the east is at a higher elevation than this site and the property on the southwest is

at a lower elevation. The Engineering Division recommends Conditions of Approval for TTM No. 16922 that requires additional right-of-way at this intersection and that street improvement plans must be submitted and reviewed prior to issuance of a grading permit.

J. Water Assessment

State statutes require that proposed residential developments of more than 500 dwelling units require an assessment to determine whether water supplies are sufficient to serve the project. The Deep Creek Estates is proposed with a maximum of eighty-seven (87) residential units and, therefore, does not require a water assessment.

The applicant has obtained a “will-serve” letter from the Apple Valley Ranchos Water Company (AVRWC) to serve this site. The Mojave Water Agency (MWA) is the State contractor for the State Water project and Watermaster for the Mojave Groundwater Basin. “The Apple Valley Ranchos Water Company” AVRWC is the private water supplier for the project site. AVRWC’s territory includes most of the Apple Valley unincorporated areas of San Bernardino County and a small portion of Victorville. AVRWC updated its Urban Water Management Plan in November 2005 for their service area. AVRWC operates 22 domestic wells in Apple Valley with a total capacity of approximately 31.7 million gallons per day. The AVRWC water system includes about 350 miles of water lines and 8.6 million gallons of storage.

The AVRWC System is well suited to serve the needs of the Deep Creek Estates Specific Plan. While the addition of significant facilities will be required, a reliable water system can be constructed to serve this development. Service to the project site can be provided within the parameters of the AVRWC Urban Water Management Plan, which complies, with the regulations of the State contractor and water-master, MWA for the project area.

The Specific Plan shall complete the on-site water system as required to provide domestic, fire and landscape water service to all the proposed structures and grounds. Fire services will be extended from the main line where fire sprinkler systems may be required. Services will also be provided for domestic service and landscaping. The size of the water main loop shall be based on the fire flow demands established by the Town of Apple Valley Fire Protection District.

K. Wastewater Collection and Treatment

The Town of Apple Valley owns and operates the local sewer collection system. Wastewater is conveyed to a regional interceptor line operated by the Victor Valley Wastewater Reclamation Authority (VWVRA). Wastewater treatment for the Town of Apple Valley is provided by the VWVRA which is a Joint Powers Authority (JPA) of local communities and San Bernardino County. The regional facility’s current design capacity is 14.0 MGD (million gallons per day).and currently under construction to go to 18.0 MGD Construction of an additional 2.5 MGD is underway and expected to be completed in 2006. These facilities will be located within the interior private road system and will be built to Town standards (i.e., manholes and mainlines). TTM 16922 contains Conditions of Approval that require connection to the Town’s public sewer system.

L. School Facilities

The Apple Valley Unified School District (AVUSD) expects to build an additional school (K through 6) in southern Apple Valley. The project will be required to pay applicable school fees to the Apple Valley Unified School District to contribute to the cost of construction of this new

school. Additional schools within the AVUHSD are planned due to anticipated population increases in Apple Valley.

M. Other Public Facilities and Services

Fire protection services are currently provided by the Apple Valley Fire Protection District and County of San Bernardino Fire Department. Station Number 334, located at 12143 Kiowa Road, is responsible for providing fire protection and paramedic services to this portion of Apple Valley. However, there is a new fire station just now entering service at the southeast corner of Jess Ranch Parkway and Old Apple Valley Road within the Jess Ranch PUD. This station will provide fire protection service for this project.

The need for, and location of, new fire stations are determined by the County or AVFPD and are included as part of the Fire service master plan update process.

The Town of Apple Valley provides law enforcement services for residents and businesses within the Town limits via a contract with the San Bernardino County Sheriffs Department. This agreement has been in place since the Town incorporated in 1988. The Town of Apple Valley spends a larger percentage of its general fund on law enforcement services than any other city in San Bernardino County. The Deep Creek Estates will be required to pay its fair share for additional police/law enforcement services during subsequent Tentative Tract Map processes.

N. General Plan Consistency

An important assertion in the General Plan Land Use Element states:

“Apple Valley is primarily a community of homes, many of which are located on lots of approximately one-half acre or more. Maintenance of a rural lifestyle is an important concept. In Apple Valley “rural” means space – unscarred mountains and vistas of desert valleys, neighborhoods of large lots where keeping horses is allowed, an extensive equestrian trail system, and landscaping in keeping with the desert environment.”

The Town of Apple Valley General Plan authorizes and provides policy direction on the appropriateness of Town Specific Plans as follows:

- The Specific Plan area is located next to the developing Solera project (Specific Plan to the west), and proposed projects to the east (Tussing Ranch Estates). Development of the area will provide linkage from Solera to Deep Creek Road via Tussing Ranch Road, as well as improve an existing dangerous intersection. Further, its development will bring needed infrastructure such as water and sewer into the area for future developments.
- The Specific Plan area, along with adjoining properties protect and enhance community values by complying with the community’s desire for minimum half (1/2)-acre single-family lots, as well as providing infrastructure needed for the area. In addition, the Specific Plan provides an equestrian development that is desired by a segment of the community.
- The Specific Plan area is already incorporated into the boundaries of the Town of Apple Valley.

- The development will provide adequate infrastructure facilities and services to support the proposed community in order to meet the needs of the requisite facilities and services. This includes sewer, water, roads, and fire station site.
- Infrastructure is located nearby, and improvements will be made to facilities and services to support the proposed community in order to meet the needs of the requisite facilities and services. This includes sewer, water, and roads.
- This development relates to the desert environment by implementing xeriscape landscaping requirements, the use of water-conserving irrigation, and retention of the existing bluffs through grading for individual lots, rather than mass grading.
- The site was not previously used for agricultural uses.
- The development of this site includes the preparation of this Specific Plan. Properties to the west are already developed with single family homes; properties to the east are proposed for Equestrian Residential use under a proposed Specific Plan; properties to the north are not being utilized for agricultural uses; and, properties to the south are developed with scattered single family residences with and without equestrian uses. The rural character of the site is being maintained by implementation of equestrian residential lots, and equestrian trails, as desired by a segment of the community. In addition, the site is compatible with potential adjacent agricultural uses due to its equestrian nature and installation of lifeline equestrian trails along Tussing Ranch and Deep Creek Roads which can be utilized by the community.
- The Specific Plan area is buffered from potential adjacent agricultural uses by the installation of lifeline equestrian trails, landscaping and sidewalks.
- The Specific Plan is not for commercial agricultural uses; therefore, no resources management is needed.

O. Specific Plan Requirements

The State Government Code, Sections 65450-65457 authorizes the preparation of specific plans and states what must be included in these plans. To an extent, the range of issues that are contained in a specific plan is left to the discretion of the Town Council; however, all specific plans must comply with these Government Code Sections.

In accordance with Government Code Section 65451, a specific plan shall include a text and diagram or diagrams which specify all of the following in detail:

- The distribution, location and extent of the uses of land, including open space, within the area covered by the plan.
- Proposed distribution, location, extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan.
- Standards and criteria by which development will proceed and, where applicable, standards for conservation, development and utilization of natural resources.

- A program of implementation measures including regulations, programs, public works projects, and financing measures necessary to carry out the matters listed above.
- The specific plan shall include a statement of the relationship of the specific plan to the general plan.

These Government Code provisions require that the specific plan be consistent with the jurisdiction's adopted General Plan and any County Airport Land Use Plan pursuant to Public Utilities Code Section 21676. In turn, all subsequent subdivisions and development, all public works projects and zoning regulations must be consistent with the specific plan. The Town's General Plan states that specific plans shall contain the following components:

- 2) A *Policy Discussion* containing the goals and objectives of the specific plan relating these to the Town's overall goals and policies as stated in the General Plan and adopted Town resolutions and policies. Policy examples include provisions for open space, e.g. equestrian and other recreational areas and community amenities and public facilities, e. g. safety facilities (fire stations).
- 3) A *Land Use Plan* based upon an analysis of development resources and constraints designating a mix of compatible uses and open space areas, incorporating high quality design concepts which implement the specific plan's policies and the Town's development objectives, and which incorporates a consistent community design theme.
- 4) A *Circulation Plan* which provides for adequate access to and from the various land uses and integrates the project circulation system into the eventual area-wide system.
- 5) An *Infrastructure and Services Plan* for the installation of infrastructure and provisions of services considering the project in a regional context, and describing the scope and sizing of capital improvements, the level of public services, the phasing plan, and the funding mechanisms proposed for construction and maintenance consistent with the Infrastructure and Services Plan.
- 6) A *Landscape Concept* theme providing a consistent planting theme and establishing a community identity for the project area.
- 7) *Special Edge Treatments* along major roads and buffers between residential uses of various intensities and non-residential uses.
- 8) A *Development Phasing Plan*.
- 9) An *Administrative Section* which shall guide the implementation of the specific plan. (General Plan p. LU 8 and 9)

The Apple Valley Development Code states that the purpose of the Town adopting specific plans is:

- To establish procedures for adoption, maintenance and administration of specific plans as allowed in accordance with the provisions of Sections 65450 et seq., of the California Government Code and as may be required for the systematic execution of the General Plan.
- To provide a planning framework to guide future public and private developments and to promote flexibility while insuring economic viability and coherent community design.

- To encourage the planned developments, of discrete neighborhoods and to permit comprehensive site and infrastructure planning and building design.
- To encourage creativity approaches to the use of land, through variation in the siting of buildings and the appropriate mixing of land uses, activities and dwelling types.
- To promote and create public and private open space as an integral part of land development design.
- To reduce, through clustering and master planning, the amounts of public and private improvements normally required by developments.
- To maximize the choice in types of housing and living environments available to Town residents.
- To allow for the consequential development of more remote areas in Apple Valley provided community facilities, services and infrastructure are supplied. (Chapter 9.03 *Specific Plan*, Town's Development Code)

## **SUMMARY**

Although the project supports single-family residential uses, the project provides limited amenities than would be expected for a Specific Plan. The site contains a natural ridgeline that bisects the property and creates a natural drainage/recreation easement. The site is located within the Deep Creek Area and provides rural appeal with equestrian opportunities; however there are major issues regarding this proposed General Plan Amendment/Zone Change, Specific Plan and Tentative Tract Map which involve the following:

1. What is the Planning Commission and Town Council's vision for the single-family residential uses of this approximately eighty (80)-acre site?
  - Is eighty (80) acres an appropriate size to facilitate the requirements of a Specific Plan which results in basically a typical subdivision for eighty-seven (87) residential lots?
2. There have been previous concerns of approving Specific Plans that are not contiguous on all boundaries with similar land uses.
3. Does the project propose special design features necessary to qualify for a Specific Plan?
4. What type of special amenities (amenity package) is necessary to qualify as a Specific Plan?
5. Based on the preliminary grading plan, there will be substantial mass grading, especially along the natural ridgeline and the intersection of Tussing Ranch and Deep Creek Roads. The project should show certain areas with contour grading to preserve the ridgeline and the natural drainage channel to both preserve and integrate these open space features into the project. The project can incorporate creative combination of contour grading and sensitive mass grading.
6. Staff previously recommended shortening the cul-de-sac (River Vista Road) and combining lots on the southeast area to create one (1) or two (2) larger parks with better and functional amenities for all the Deep Creek residents.
7. Parks should be one (1)-acre minimum in size.

8. The drainage channel should be designed to allow for a natural channel in keeping with the rural/desert character of the area
9. Redesign the "Open Space Easement – No Structures" area to include the residual property shown on the rear/side of Lot Nos. 24 to 36.
10. Exhibit No. 7-1, Phasing Plan should be numbered with appropriate phase numbers. Staff recommends that on Page 7-6, the paragraph under "Phase – Neighborhood Equestrian Area" should be deleted. The improvements on River Vista Road are required under Engineering Conditions of Approval with TTM No. 16922.

## **ENVIRONMENTAL ASSESSMENT**

Based upon an Initial Study, pursuant to the Guidelines to implement the California Environmental Quality Act (CEQA), a proposed Mitigated Negative Declaration (MND) has been prepared for the applicant's project. The MND includes mitigation measures for both the requested and General Plan Amendment/Zone Change, Specific Plan and Tentative Tract Map to reduce impacts to a less than significant level per the CEQA guidelines.

## **NOTICING AND COMMENTS**

General plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922 were advertised as a public hearing in the Apple Valley News newspaper on September 21, 2007 as required under Development Code Section 9.13.030 *Notice of Public Hearings*. Additionally, a sign is posted on the property as required under Development Code Section 9.13.030 (9)

## **FINDINGS**

In considering any General Plan Amendment or Zone Change, the Council and Commission are required by the Municipal Code to make specific Findings. The following are the Findings for a General Plan Amendment required under Section 9.02.050 H 3 of the Development Code, with a comment to address each:

### General Plan Amendment

1. The proposed General Plan amendment is consistent with the goals, policies and standards of all elements of the General Plan and will further those goals, policies and standards;

Comment: The proposed General Plan Amendment is consistent with, and furthers the Goals and Policies of, the General Plan Land use Element by promoting single-family residential development and demonstrates a logical extension of development.

2. The General Plan, as amended, will comprise an integrated, internally consistent and compatible statement of policies for the Town;

Comment: The proposed General Plan Amendment will be consistent with the Goals and Policies of both the Land Use Element and the Circulation Element of the adopted General Plan and will comprise an integrated, internally consistent and compatible statement of policies for the Town.

3. The General Plan amendment furthers the public interest and promotes the general welfare of the Town by providing for a logical pattern of land uses and clarifying various land use policies for the Town.

Comment: The proposed change to the Land Use Element of the adopted Town of Apple Valley General Plan furthers the public interest and promotes the general welfare of the Town by encouraging development to occur in a logical pattern, adjacent to previously developed areas and in ways that allow for clear linkages to circulation and infrastructure systems.

Development Code section 9.06.060 requires the following findings be made in order to approve Zone Change Amendments to the Development Code:

- i. The proposed amendment is consistent with the General Plan

Comment: The proposed project is consistent with the goals, policies and standards of all of the General Plan Elements and will further their implementation. Water and sewer lines, as well as streets, can be readily extended to the site and the proposed project is compatible with the natural biotic, cultural, scenic and open space resources of the area with the recommended modifications to the Specific Plan

2. The proposed amendment will not be detrimental to the public health, safety or welfare of the Town or its residents.

Comment: The request will not adversely affect the health, peace or comfort of persons residing in the area and will not be detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, and will not jeopardize, endanger or otherwise constitute a menace to public health, safety or welfare with the proposed modifications to the Specific Plan.

Development Code section 9.03.040 requires that the following findings be made in order to approve a Specific Plan:

- A. The proposed specific plan meets all of the following content criteria:

2. Specifies through text and/or diagrams, the distribution, location and extent of the uses of land, including open space, within the area covered by the plan.

Comment The proposed Specific Plan specifies with text and diagrams the distribution, location and amount of land uses, including open space.

3. Specifies through text and/or diagrams, the proposed distribution, location and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid-waste disposal, energy and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan.

Comment The proposed specific plan specifies through text and diagrams the proposed distribution, location and extent of major onsite public facilities and services, including transportation, sewage, water, drainage, energy and other essential services needed to



support the plan's land uses. Proposed roads described in the text are illustrated with a plan view map and road cross sections.

4. Specifies through text and/or diagrams, the standards and criteria by which development will proceed, and standards for the conservation, development and utilization of natural resources, where applicable.

Comment The proposal, through text, diagrams and photographs, specifies the standards and criteria by which development will proceed and natural resources will be preserved, managed and utilized in the designated Open Space (OS) area with the proposed recreation/equestrian trail and drainage area. The text, diagrams, photographs and design guidelines outline how the project will interface with the existing desert site.

5. Specifies a program of implementation measures, including regulations, programs, public works projects, and financing measures necessary to carry out Findings A.1, A.2 and A.3 above.

Comment The specific plan includes implementation procedures, a development phasing schedule, possible financial mechanisms and Homeowners' Association (HOA) maintenance responsibilities for street parkways, multi-use trails, bikeways, park, landscaped areas and drainage systems. The phasing schedule calls for the project to be constructed in three (3) phases, beginning from the north. Tentative Tract Map No. 16922 is filed concurrently with the various phases. The Mitigated Negative Declaration mitigation measures will be incorporated with other TTM Conditions of Approval. The financing methods for various on and off-site improvements will be determined in conjunction with the phasing of the infrastructure.

5. Includes a statement of the relationship of the specific plan to the General Plan, Development Code and other applicable plan or ordinance.

Comment The Specific Plan contains a chapter on the purpose and authority of the Specific Plan under California Government Code, Sections 65450 through 65454, including content requirements. This chapter also includes the Specific Plan's relationship to the Town's General Plan, Vision 2010, and the Development Code (Zoning Ordinance and Subdivision Ordinance). Deep Creek Estates will be consistent with the General Plan and Development Code with the suggested Specific Plan modifications.

6. Addresses any other subjects that are necessary for implementation of the General Plan.

Comment The project would be sequential development adjacent to the approved Jess Ranch Specific Plan to the northwest.

- B. The location and design of the proposed development will be consistent with the goals and policies of the General Plan and with any other applicable plan or policies adopted by the Town and with any other applicable provisions of the Development Code.

Comment            The proposed location will allow the development to be well integrated with, or adequately buffered from, its surroundings, whichever may be appropriate.

- C. The proposed location will allow the development to be well integrated with or adequately buffered from its surroundings, whichever may be appropriate.

Comment:            The Specific Plan preserves and provides access to the site and includes appropriate design standards, setbacks and landscaping in order to buffer the proposed development from the surrounding existing and anticipated residential neighborhoods.

- D. All vehicular traffic generated by the development, either in phased increments or at full build-out, will be accommodated safely and without causing significantly increased congestion upon adjoining streets.

Comment            Based on a Traffic Study, the Specific Plan specifies appropriate traffic mitigation measures, including the extension of roads to support the project's development phases and maintain the LOS C at all Town of Apple Valley intersections.

- E. The final specific plan will identify a methodology to allow land uses to be adequately serviced by existing or proposed public facilities and services. In appropriate circumstances, and as provided elsewhere by this Development Code, the Town may require that suitable areas be reserved for uses such as schools, parks and pedestrian ways; public open spaces may be dedicated or reserved by private covenant for the common use of residents, establishments or operations in the development.

Comment            The Specific Plan includes conceptual plans for circulation, trails, open space and landscaping, water, wastewater, and drainage as well as an infrastructure phasing plan. A homeowner's association (HOA) will be responsible for the landscaping and related maintenance in the rights-of-way and other common areas, the trails, trail fencing, walkways and drainage facilities.

- F. In accordance with the requirements of the California Environmental Quality Act (CEQA), environmental impacts have been reduced to a level of insignificance, or in the case where such impacts remain; a statement of overriding considerations must be adopted to justify the merits of project implementation after certification of the Environmental Impact Report.

Comment            Although the project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by, or agreed to, by the applicant and mitigations will be implemented to reduce any potential impacts to a level of insignificance.

- G. The proposed specific plan should contribute to a balance of land uses so that local residents may work and shop in the community in which they live.

Comment            The project is a proposed residential Specific Plan and will provide the residents of Deep Creek Estates recreational amenities within the project boundaries. The project is less than two (2) miles from major commercial retail centers and abuts existing residents in the adjacent Jess Ranch and Solera communities.

- i. The proposed specific plan will not be detrimental to the public health, safety or welfare of the Town.

Comment: The specific plan is consistent with the General Plan and Development Code and will not be detrimental to the public health, safety or welfare of the Town with the recommended modifications to the Specific Plan.

- ii. The proposed specific plan will not be detrimental to the public health, safety or welfare of the Town.

Comment: The specific plan is consistent with the General Plan and Development Code and will not be detrimental to the public health, safety or welfare of the Town. The project is adjacent to Tussing Ranch, Deep Creek, and Wren Roads and with the proposed setbacks and landscaping buffer will be compatible with the surrounding area.

#### Tentative Tract Map Findings

In considering any Tentative Tract Map, the Commission is required by the Development Code to make specific Findings. The following are the Findings for a Tentative Tract Map required under Section 9.71.040 (A5) of the Development Code and a comment to address each:

1. The proposed Subdivision, together with the provisions for its design and improvement, is consistent with the General Plan and any applicable Specific Plan. The proposed subdivision or land use is compatible with the objectives, policies, general land uses and programs specified in the General Plan and any applicable Specific Plan (Subdivision Map Act 66473.5).

Comment: The subject property is consistent with the Specific Plan land use designations of Residential Single-Family (R-SF) and Residential Equestrian (R-EQ) and the development standards contained within the Deep Creek Estates Specific Plan. The project is a proposal to subdivide the eighty (80)-acre property into eighty-seven (87) single-family lots and, with adherence to staff recommended conditions, will meet the minimum requirements for lot size, width and depth as prescribed by the Specific Plan and will be consistent with the goals and policies of the General Plan.

2. The Planning Commission has considered the effects of its action upon the housing needs of the region and has balanced these needs against the public service needs of its residents and available fiscal and environmental resources (Subdivision Map Act Section 66412.3).

Comment: The proposal consists of a land subdivision located on vacant, residentially designated land for the purpose of future residential development. No houses are being removed and housing needs will not be negatively impacted.

3. The design of the subdivision provides, to the extent feasible, for the future passive or natural heating or cooling opportunities in the subdivision.

Comment: The lots created under this subdivision within the Residential Single-Family (R-SF) and Residential Equestrian (R-EQ) land use designations are appropriate in size to provide natural heating and cooling opportunities for development of the site. However, as development occurs, the individual lots are subject to the implementation of natural heating and cooling requirements pursuant to Title 24 energy requirements.

4. The Planning Commission shall determine whether the discharge of waste from the proposed subdivision into the existing sewer system would result in a violation of the requirements as set forth in Section 13000 et seq., of the California Water Code. If the Planning Commission finds that the proposed waste discharge would result in or add to a violation of said requirements; the Planning Commission may disapprove the subdivision (Subdivision Map Act Section 66474.6).

Comment: The project is a residential land subdivision and meets the requirements for connection to the Apple Valley Sewer System. Financial arrangements, plans and improvement agreements must be approved by the Town of Apple Valley Public Works Division.

## **RECOMMENDATION**

Based upon the information contained within this report, and any input received from the public at the hearing, it is recommended that the Planning Commission move to adopt Resolution 2007-028 to the Town Council:

1. Determine that the proposed General Plan Amendment, Zone Change, Specific Plan and Tentative Tract Map will not have a significant effect on the environment with adherence to the Mitigation Measures recommended in this report.
2. Determine the proposed project could have the potential for adverse effects on wildlife resources and the applicant is responsible for the payment of Fish and Game fees at the time the Notice of Determination is filed with the County.
3. Adopt the Mitigated Negative Declaration finding and Mitigated Monitoring Program for GPA 2004-002, ZC No. 2004-002, SP No. 2004-002 and TTM No. 16922, finding that on the basis of the whole record before the Planning Commission, including the Initial Study and any comments received, there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects the Town's independent judgment and analysis. The Initial Study and Mitigated Negative Declaration are available at the Town's Planning Division which constitutes the record of proceedings upon which its decision is based.
4. Find that the facts presented in the staff report support the required Findings for approval and adopt those findings.

5. Adopt Planning Commission Resolution No. 2007-028 approving the Specific Plan, as requested, in accordance with Exhibit B and recommended modifications to the Specific Plan (Exhibit C), without which Exhibits B and C, staff cannot recommend approval.
6. Approve General Plan Amendment No. 2004-002, the conforming land use designation, from Residential Low Density (R-LD) to Specific Plan (S-P), Zone Change No. 2004-002, the conforming Specific Plan rezoning, from Residential Agriculture (R-A) to Specific Plan (SP) in accordance with Exhibit B, and recommended modifications to the Specific Plan (Exhibit C).
7. Approve Tentative Tract Map No. 16922, pending Town Council approval of General Plan Amendment/Zone Change No. 2004-002 and Specific Plan No. 2004-002
8. Direct staff to file a Notice of Determination.

**Prepared By:**

**Reviewed By:**

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Becky Reynolds  
Principal Planner

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Lori Lamson  
Assistant Director of Community Development

**ATTACHMENTS**

1. Vicinity map
2. Tentative Tract Map No. 16922 (reduced copy)
3. Aerial photograph of site and surrounding area
4. Proposed Specific Plan Land Use/Site map
5. Proposed Buffering map
6. Proposed Development Phasing map
7. Photos of site
8. Consistency with Town General Plan Goals and Policies
9. Existing and Proposed General Plan and Zoning Maps
10. Planning Commission Resolution No. 2007-028
  - Exhibit A - Proposed and Existing General Plan maps with property description
  - Exhibit B - TTM No. 16922
  - Exhibit C - Recommended Modifications to Specific Plan
11. Recommended Conditions of Approval for TTM No. 16922

The Deep Creek Estates Specific Plan (separate handout)

Tentative Tract Map No. 16922 – Full Size (separate handout)



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# Deep Creek Estates

Ken Richmond

# Exhibit 1-2 Project Vicinity

Altec Land Planning

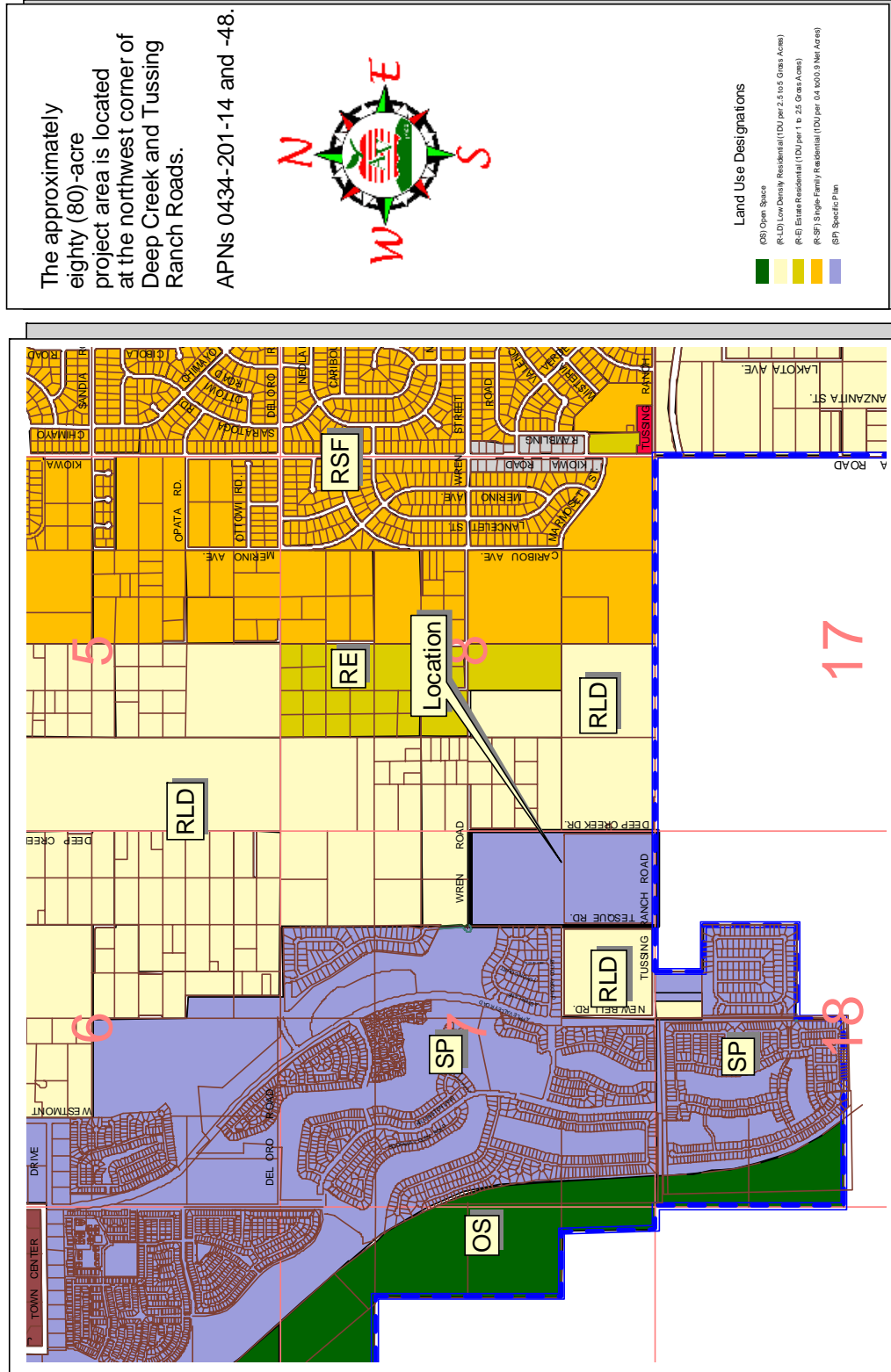




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**Proposed General Plan Land Use**  
**Deep Creek Estates General Plan Amendment No. 2004-002**



The approximately eighty (80)-acre project area is located at the northwest corner of Deep Creek and Tussing Ranch Roads.

APNs 0434-201-14 and -48.



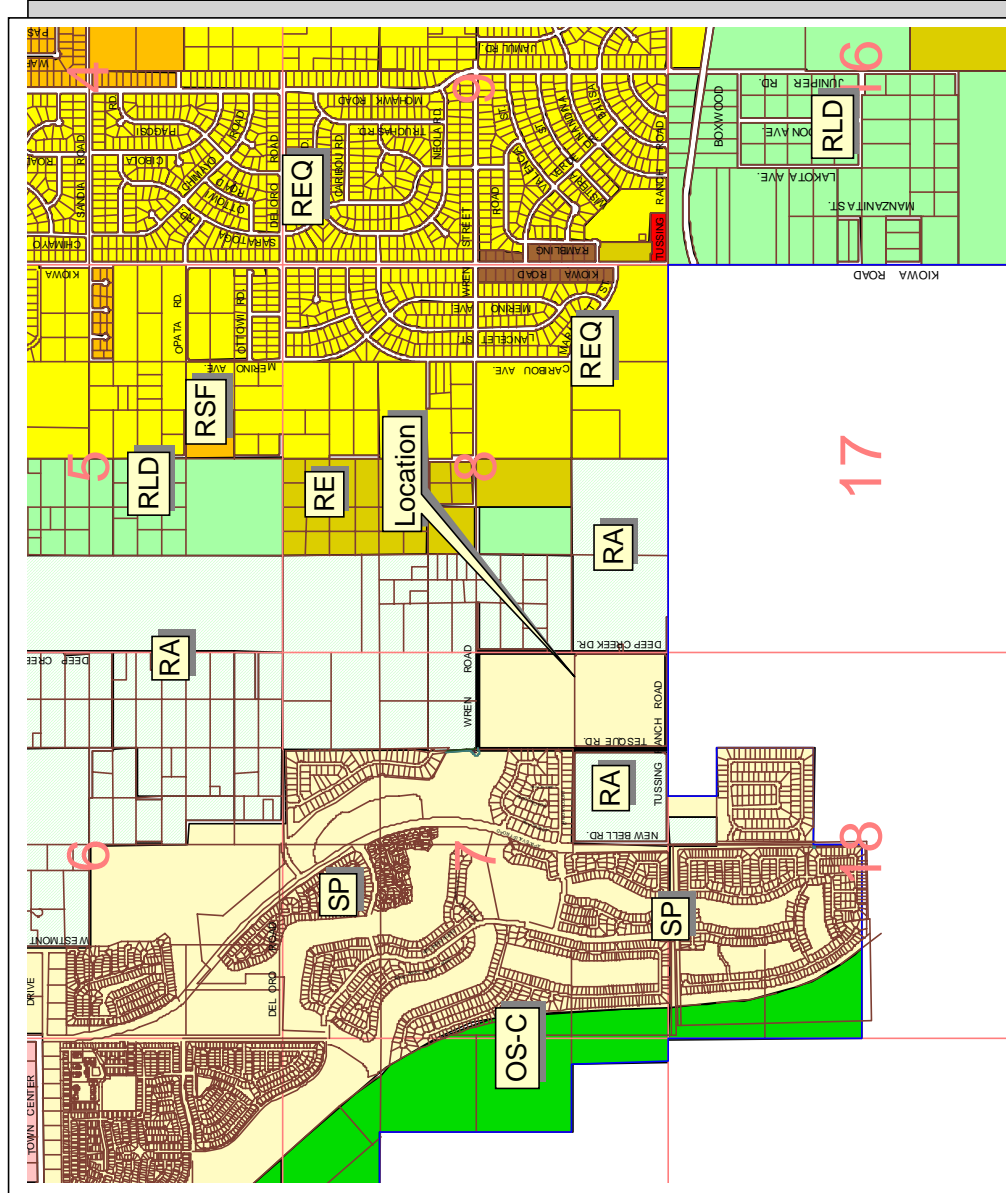
**Land Use Designations**

- OS) Open Space
- RLD) Low Density Residential (1 DU per 2.5 to 5 Gross Acres)
- RE) Estate Residential (1 DU per 1 to 2.5 Gross Acres)
- RSF) Single-Family Residential (1 DU per 0.4 to 0.9 Net Acres)
- SP) Specific Plan

October 17, 2007

# Proposed Zoning Designation

## Deep Creek Estates Zone Change No. 2004-002



The approximately eighty (80)-acre project area is located at the northwest corner of Deep Creek and Tussing Ranch Roads.

APNs 0434-201-14 and -48.



- Zoning Designations**
- OS-C Open Space Conservation
  - RA Residential Agriculture (1 DU per 1.5 to 5 Gross Acres)
  - RLD Low Density Residential (1 DU per 2.5 to 5 Gross Acres)
  - RE Estate Residential (1 DU per 1 to 2.5 Gross Acres)
  - REQ Equestrian Residential (1 DU per 0.4 to 0.9 Net Acres)
  - RSF Single-Family Residential (1 DU per 0.4 to 0.9 Net Acres)
  - SP Single-Family Residential (1 DU per 0.4 to 0.9 Net Acres)

October 17, 2007

**Deep Creek Estates Specific Plan**

**Appendix E - PHOTOGRAPHS**

Dated: Rev. 2 April 2007

**Altec Land Planning**

(760) 242-9900

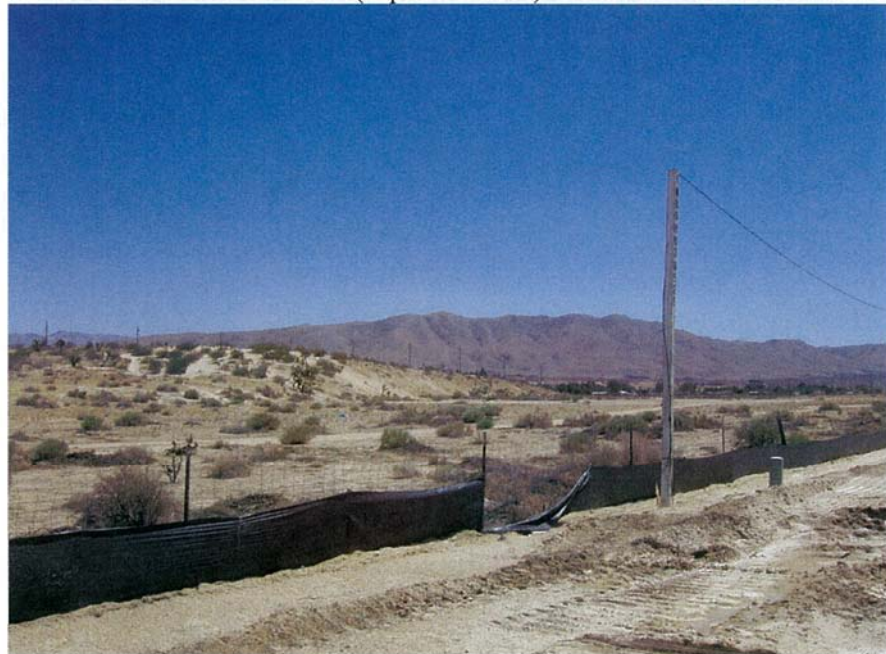
17995 US Highway 18, Suite 4

Apple Valley, CA 92307-3550

Fax (760) 242-9918



SOUTH LINE LOOKING NORTHWESTERLY AT UNDEFINED NATURAL DRAINAGE  
(September 2004)



NEAR NWC – LOOKING SOUTHEAST AT CONSTRUCTION SITE AND HOV TRACKS  
(September 2004)

**Deep Creek Estates Specific Plan**

**Appendix E - PHOTOGRAPHS**

Dated: Rev. 2 April 2007

**Altec Land Planning**

(760) 242-9900

17995 US Highway 18, Suite 4

Apple Valley, CA 92307-3550

Fax (760) 242-9918



NWC – LOOKING SOUTH AT CONSTRUCTION SITE  
(September 2004)



NWC – LOOKING NORTH ALONG GOLF COURSE AND CONSTRUCTION SITE  
(September 2004)

**Deep Creek Estates Specific Plan**

**Appendix E - PHOTOGRAPHS**

Dated: Rev. 2 April 2007

**Altec Land Planning**

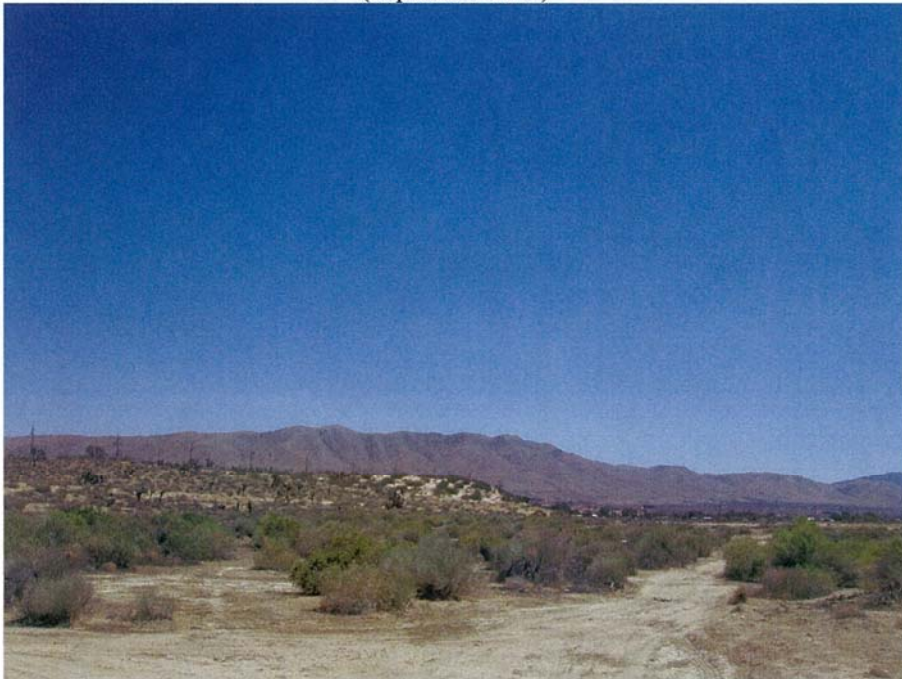
(760) 242-9900

17995 US Highway 18, Suite 4  
Apple Valley, CA 92307-3550

Fax (760) 242-9911



NWC – LOOKING NORTHWEST AT GOLF COURSE CLUBHOUSE AND DRIVING RANGE  
(September 2004)



NORTH LINE – LOOKING SOUTHERLY AT SITE  
(September 2004)

**Deep Creek Estates Specific Plan**

**Appendix E - PHOTOGRAPHS**

Dated: Rev. 2 April 2007

**Altec Land Planning**

(760) 242-9900

17995 US Highway 18, Suite 4

Apple Valley, CA 92307-3550

Fax (760) 242-9918



NEC – LOOKING EAST AT SUBSTATION  
(September 2004)



NEC – LOOKING NORTHWEST AT ADJACENT SITE  
(September 2004)

**Deep Creek Estates Specific Plan**

**Appendix E - PHOTOGRAPHS**

Dated: Rev. 2 April 2007

**Altec Land Planning**

(760) 242-9900

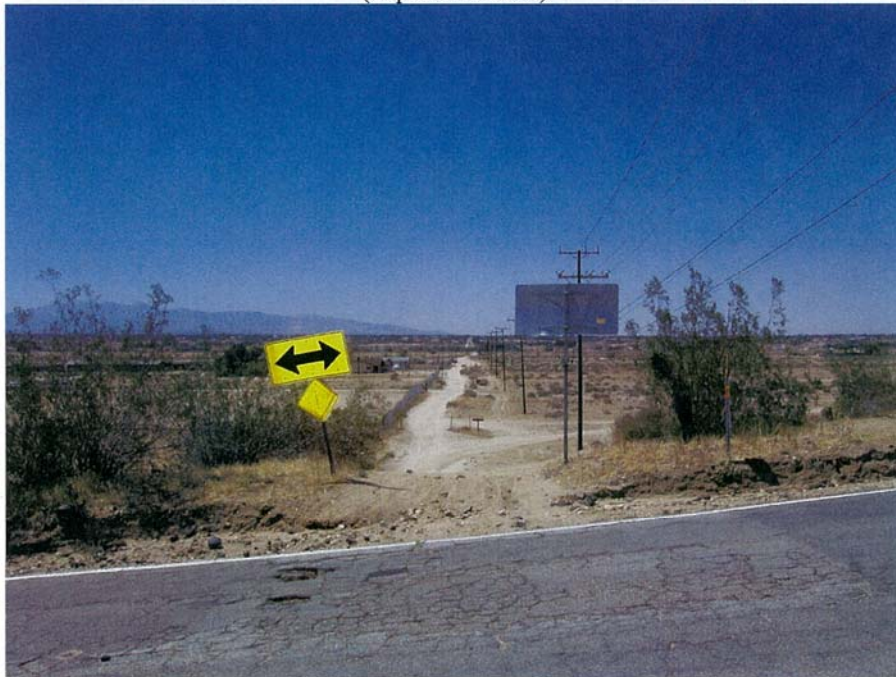
17995 US Highway 18, Suite 4

Apple Valley, CA 92307-3550

Fax (760) 242-9918



NEC – LOOKING WEST AT NORTHERLY PORTION OF SITE  
(September 2004)



SEC – LOOKING WEST AT SOUTHERLY PORTION OF SITE  
(September 2004)

**Deep Creek Estates Specific Plan**

**Appendix E - PHOTOGRAPHS**

Dated: Rev. 2 April 2007

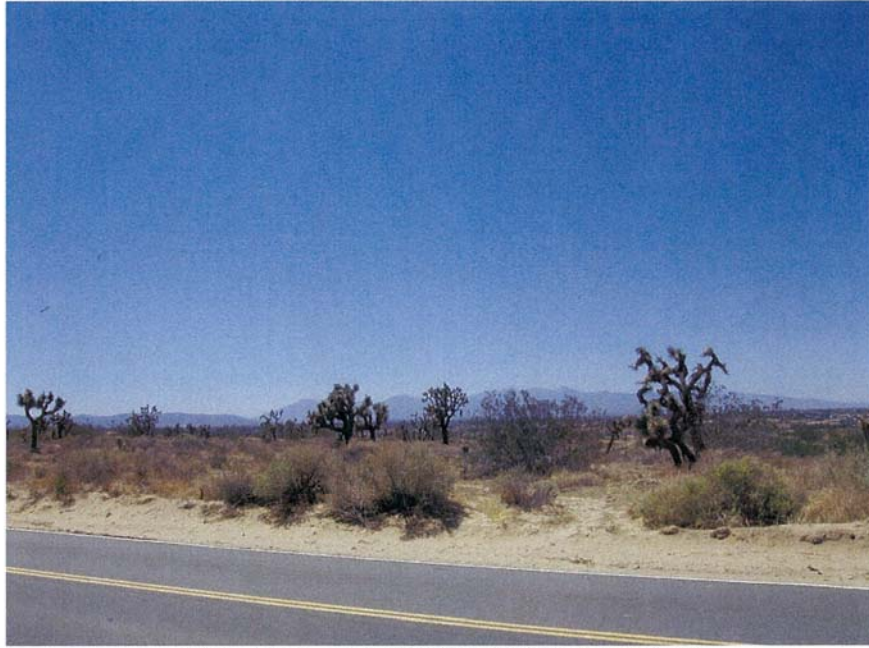
**Altec Land Planning**

(760) 242-9900

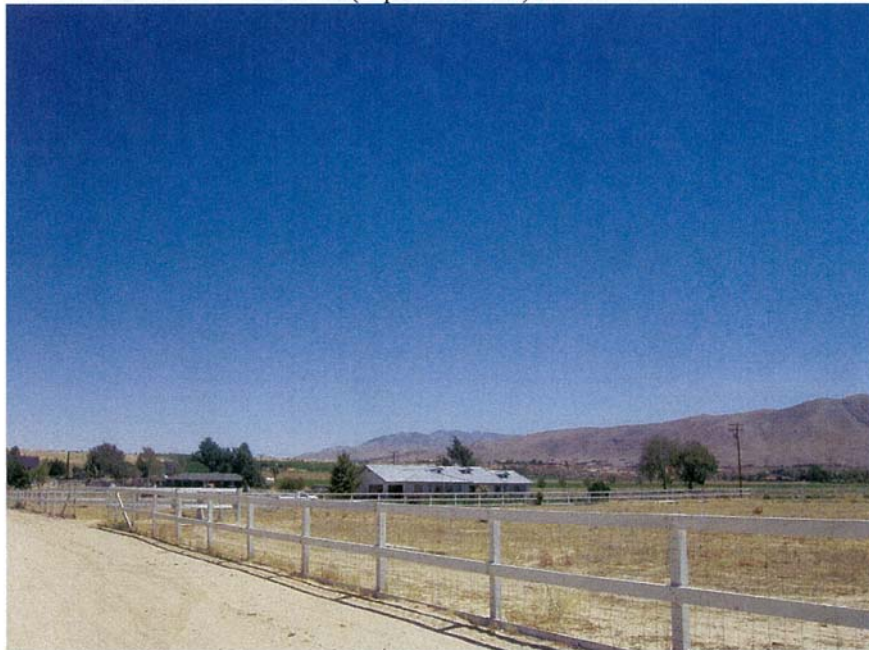
17995 US Highway 18, Suite 4

Apple Valley, CA 92307-3550

Fax (760) 242-9918



EAST LINE – LOOKING SOUTHWEST AT SITE  
(September 2004)

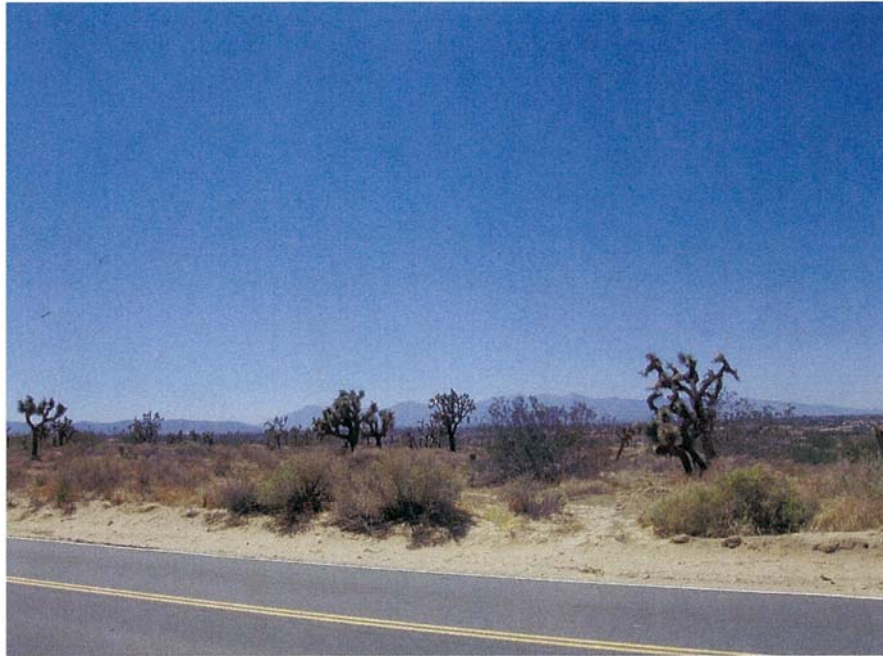


SOUTH LINE – LOOKING SOUTHEASTERLY AT ADJACENT RANCH  
(September 2004)

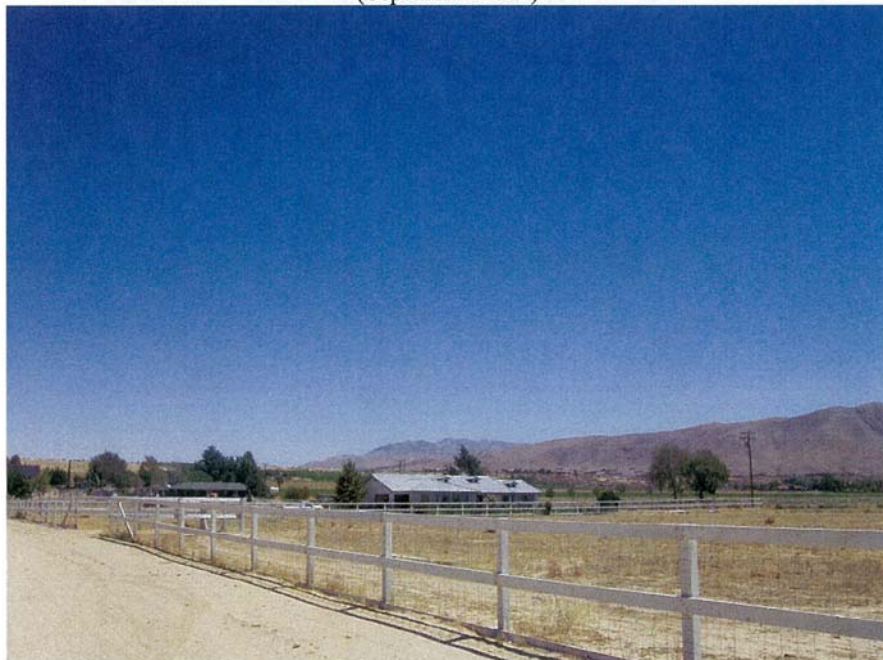


**Appendix E - PHOTOGRAPHS**

Dated: Rev. 2 April 2007



EAST LINE – LOOKING SOUTHWEST AT SITE  
(September 2004)



SOUTH LINE – LOOKING SOUTHEASTERLY AT ADJACENT RANCH  
(September 2004)

**Deep Creek Estates Specific Plan**

**Appendix E - PHOTOGRAPHS**

Dated: Rev. 2 April 2007

**Altec Land Planning**

(760) 242-9900

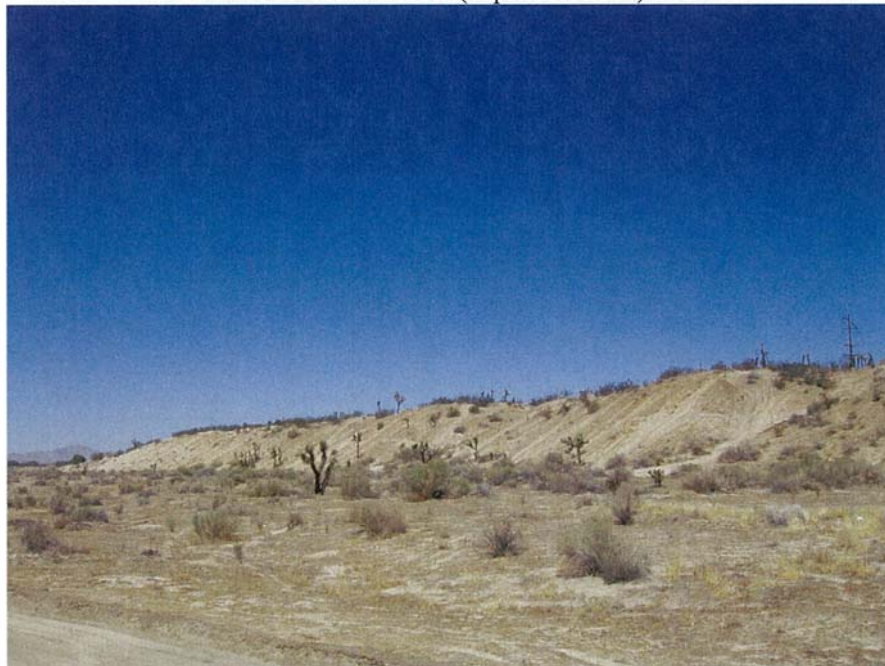
17995 US Highway 18, Suite 4

Apple Valley, CA 92307-3550

Fax (760) 242-9918



CENTER WEST OF SITE LOOKING WEST AT COOPERS HOME & PULTE HOMES CONSTRUCTION (September 2004)



CENTER SOUTH OF SITE LOOKING NORTHEAST AT HOV TRACKS (September 2004)

## **Attachment No. 8 - Consistency With General Plan Goals and Policies**

### APPENDIX C – GENERAL PLAN CONSISTENCY

California State Law requires a specific plan to be consistent with the General Plan. Currently, the Town's General Plan land use designation for the Specific Plan site is Residential Low Density (R-LD) which allows 1 DU per 2.5 to 5 gross acres. Development of the Specific Plan would allow eighty-seven (87) residential units proposed under Tentative Tract Map No. 16922 in a gross area of eighty (80) acres. As a result, the applicant is proposing a General Plan Amendment to change the designated land use of the Specific Plan site from Residential Low Density (R-LD) to Specific Plan (S-P) District in the Land Use Element text and map. The proposed General Plan Amendment must be adopted by the Town of Apple Valley prior to the adoption of this Specific Plan, which would make the Specific Plan consistent with the General Plan. The Specific Plan is consistent with the General Plan Elements and policies identified below.

#### LAND USE GOALS

GOAL LU-1: The Town will respect the desert environment.

Policy LU-1.1: The Town will encourage low water use through native desert plants for landscaping (xeriscape);

Policy LU-1.2: The Town will retain natural drainage channels.

Policy LU-1.3: The Town will protect environmentally unique and fragile areas, such as the knolls, areas of dense Joshua trees, and the Mojave River.

Policy LU-1.4: Clearance for construction on any development site should be limited to no more than thirty (30) feet surrounding a building pad (i.e. area of structures footprint).

Consistency:

- The Specific Plan provides for the use of xeriscape landscaping, with minimal turf areas, and water conserving irrigations systems.
- The existing drainage channel alignment will be retained and improved per the requirements of the Master Plan of Drainage for the Town of Apple Valley or as determined by the Town Engineer.
- The site was evaluated for Joshua trees by Altec Land Planning in August 2007. Many Joshua Trees (513) populate the site, with those located at the southwest and northeast corners being healthy and transplantable. The remainder of the site contains unhealthy clone Joshua trees with very poor corm and root systems, which are unlikely to survive transplantation. Those Joshua Trees healthy enough for transplantation will be retained on the site as outlined in the Biological Assessment.
- Finally, mass grading is not proposed for Phase 1 and 2 of the Specific Plan area to allow for individualized custom home design, and lots will be graded no more than thirty (30) feet surrounding the building pad. Mass grading will be required for Phase No. 3 in order to address drainage concerns as well as improve line-of-sight conditions at an existing dangerous intersection at Tussing Ranch and Deep Creek Roads.

GOAL LU-2: The Town will manage growth in an orderly manner in accordance with a long range plan which protects and enhances community values, and which does not exceed the provisions of requisite facilities and services.

Policy LU-2.1: Development is encouraged to occur in a sequential manner, adjacent to previously developed areas and in ways which allow for clear linkages to circulation and infrastructure systems.

Policy LU-2.2: The General Plan reflects the long-term needs of the community. The Town will discourage development which sacrifices long-term goals in preference to short-term desires.

Policy LU-2.4: The Town will require that all necessary infrastructure and support services be in place prior to occupancy of new development. (Examples of infrastructure include water, sewer, electricity, gas, and telephone. Examples of support services and public facilities include police and fire protection and recreation areas. The extent of required infrastructure and special services will depend on the nature of specific development proposals.)

Policy LU-2.5: Town development policies shall discourage speculation in the undeveloped portions of the Planning Area by limiting project approvals in those areas with inadequate infrastructure.

Policy LU-2.6: The Town shall encourage and promote designs which relate to and are harmonious with the region's desert environment.

Consistency:

- The Specific Plan Area is located next to the developing Jess Ranch PUD (Solera) project (Specific Plan to the west), and proposed projects to the east (Tussing Ranch Estates). Development of the area will provide linkage from Jess Ranch PUD (Solera) to Deep Creek Road via Tussing Ranch Road, as well as improve the existing intersection. Further, its development will bring needed infrastructure such as water and sewer into the area for future developments.
- The Specific Plan Area, along with adjoining properties protect and enhance community values by complying with the community's desire for minimum half (1/2) acre single-family lots as well as providing infrastructure needed for the area. In addition, the Specific Plan provides an equestrian development as is desired by the community.
- The development will provide adequate infrastructure facilities and services to support the proposed community in order to meet the needs of the requisite facilities and services. This includes sewer, water and roads.
- Infrastructure is located nearby, and improvements will be made to facilities and services to support the proposed community in order to meet the needs of the requisite facilities and services. This includes sewer, water, and roads.
- This development relates to the desert environment by implementing xeriscape landscaping requirements, the use of water-conserving irrigation, and retention of the existing bluffs through grading for individual lots, rather than mass grading.

GOAL LU-3: The Town shall promote and provide safe, attractive and well-served residential areas in keeping with the desert environment and its open characteristics.

Policy LU-3.1: The Town will encourage single-family detached housing on lots of no less than 18,000 square feet net.

Policy LU-3.2: The Town supports existing neighborhoods which allow for equestrian activities and encourages their expansion where appropriate. Equestrian communities and facilities are especially encouraged adjacent to the lifeline trail system.

Policy LU-3.4: Open space equivalent to that provided by single-family units or 18,000 sq. ft. net lots shall be provided for in all specific plans.

Policy LU-3.5: All aspects of Town ordinances shall be reviewed on a regular basis with emphasis on the following:

- a.: Regulation of unsightly outdoor storage, including recreational vehicles, trucks, junk cars, unused appliances and other articles;
- b.: Encouragement of property maintenance;
- c.: Provision of incentives for rehabilitating and remodeling existing residential units;
- d.: Abatement of residential units unsuitable for habitation because of health and safety problems;
- e.: Encouragement of off-street parking;
- f.: Active enforcement of Town codes; and
- g.: Conservation of local resources.

Policy LU-3.6: The Town will encourage streetscapes and edge treatments which buffer homes along major streets. The use of desert landscaping and appropriate water retention basins will be encouraged.

Policy LU-3.7: The Town will support measures which buffer both new and established residences from commercial, industrial and agricultural uses. Such measures may include increased setbacks, walls, berms, landscaping, and location of trash bins and loading areas away from residences.

Policy LU-3.8: The Town will limit street lighting in residential areas to the minimum required for safety;

Policy LU-3.9: The Town will encourage varied building setbacks;

Policy LU-3.10: The Town will allow for a range of local street standards appropriate to the type and density of development; e.g., curbs/gutters in urban areas, rolled curbs in lower density areas, and dirt roads in some rural areas.

Consistency:

- The development proposes a maximum density of two (2) dwelling units per acre and minimum 18,000 square foot equestrian and single-family residential lots consistent with the provisions of the Town of Apple Valley 1998 General Plan, in order to protect the rural character of the Town of Apple Valley.

- The Specific Plan Area lies next to two (2) designated lifeline trails, along Tussing Ranch and Deep Creek roads, both of which will be improved as part of its development. Further, the area lies west of another proposed equestrian Specific Plan.
- In addition to the open space provided on each individual lot, the Specific Plan contains area for a recreation (Lot "A" located south of Lot No. 26 on River Vista Road), and a Drainage and Recreation Trail Easement providing access for those traversing from north to south through the development.
- This Specific Plan is not a review of Town ordinances, but an implementation of them; however, once developed, residents must comply with said ordinances.
- The Specific Plan area will be buffered from major streets (Tussing Ranch and Deep Creek roads) by the installation of lifeline equestrian trails, landscaping, sidewalks, and landscaping as approved by Town staff.
- There are no industrial or commercial developments in the area. The Specific Plan Area will be buffered from any potential agricultural uses by the installation of major roadways (Tussing Ranch and Deep Creek Roads), lifeline equestrian trails, landscaping, sidewalks, and landscaping as approved by the Town.
- The location of street lights will be limited to within the rights-of-way for Tussing Ranch and Deep Creek Roads and Wren Street, with spacing approved by the Town Engineer, and at the intersection of all internal project streets. Light fixtures will be shielded as necessary to direct light downward onto the site only, or as approved by the Town Engineer.
- Setbacks for the development will be regulated by the Development Code of the Town of Apple Valley, which requires varied setbacks.
- The Specific Plan will be developed in compliance with the Town's roadway standards appropriate for the type of density of its development.

GOAL LU-5: The Town will encourage and support the preservation of historic and cultural resources.

Policy LU-5.1: The Town will complete an inventory of historic sites and buildings.

Policy LU-5.2: Consideration of potentially impacted archaeological and historic resources in the planning area will conform to the guidelines detailed in Appendix K of the CEQA Law and Guidelines, 1986, with revisions.

Policy LU-5.3: The Town will encourage the adaptive reuse of buildings and structures of significant historical or cultural value.

Consistency:

- The Specific Plan Area was evaluated by The Chambers Group and is not on the inventory of historic sites and buildings.
- The Specific Plan Area was evaluated by The Chambers Group, said evaluation being reported in the "Cultural Resources Inventory of 80 Acres: Tentative Tract 16922, Apple Valley, San Bernardino County, California" prepared December 2005.

No materials of historical or cultural significance were located as part of this evaluation; therefore, no preservation is required.

- There are no structures or buildings for potential adaptive reuse or of significant historical or cultural value located on the site.

GOAL LU-6: The Town shall protect the rural agrarian lifestyle in those areas traditionally devoted to agricultural land uses.

Policy LU-6.1: Agriculture will be able to continue in those areas along Deep Creek Road previously zoned by San Bernardino County for agriculture. An agricultural zoning district shall be included in the Town Development Code for commercial agricultural uses in these areas.

Policy LU-6.2: The Town will encourage 2.5 acre minimum lots in areas which have historically been used for agriculture. Increases in density in the Deep Creek area shall require the preparation of a Specific Plan. Development in this area should be clustered maintaining to the maximum extent feasible the rural character of the site. The specific plan shall address in detail the provision of adequate infrastructure and services, including circulation, as well as compatibility with agricultural uses in the vicinity and the development's relationship to adjacent properties.

Policy LU-6.3: Agricultural uses shall be buffered from existing and new residential development. All new residential development approved to occur adjacent to agricultural areas shall provide a buffer area as provided for in the Town Development Code.

Policy LU-6.4: Criteria for resources management (water, soil, etc.) of all commercial agricultural uses shall be considered as part of the Town's Development Code.

Consistency:

- The site is not previously used for agricultural uses.
- The development of this site includes the preparation of this Specific Plan. Properties to the northwest are developed with single family homes, properties to the east are proposed for Equestrian Residential uses under a proposed Specific Plan, properties to the north are not being utilized for agricultural uses, and properties to the south are developed with single-family residences with and without equestrian uses. The rural character of the site is being maintained by implementation of equestrian sized residential lots, and equestrian trails desired by the community. In addition, the site is compatible with potential adjacent agricultural uses due to its equestrian nature, and installation of lifeline equestrian trails along Tussing Ranch and Deep Creek Roads which can be utilized by the community.
- The Specific Plan area is buffered from potential adjacent agricultural uses by the installation of lifeline equestrian trails, landscaping, sidewalks, and landscaping as approved by the Town.
- The Specific Plan is not for commercial agricultural uses; therefore, no resources management is needed.

GOAL C-1: Provide a balanced transportation system that ensures the safe and efficient movement of people, goods and services throughout the Town, while minimizing the use of land for transportation facilities.

Policy C-1.1: Provide a plan for a coordinated street system for the safe and efficient movement of people and goods.

Policy C-1.2: Maintain and rehabilitate roadways as necessary to preserve the high quality of Town streets and thoroughfares.

Policy C-1.3: Minimize through traffic in residential neighborhoods.

Policy C-1.4: Arterial roads should carry through traffic and be improved to maintain a Level of Service C or better.

Policy C-1.5: Reduce vehicle travel time through the Town and improve emergency access by improving access across the Mojave River and to I-15.

Policy C-1.6: Require adequate parking facilities for all uses, including areas where existing parking facilities may be lacking, such as the Village area and office areas of Desert Knolls.

Consistency:

- The Specific Plan contains a plan for a coordinated street system in Section 5.1, "Off-Site Circulation and Access."
- Development of the Specific Plan Area necessitates the redevelopment of the western portion of Deep Creek Road to full buildout.
- Entrances to the Specific Plan Area are not located in such a manner as to provide easy use by through traffic.
- Tussing Ranch and Deep Creek roads will be developed, and the intersection improved, so that LOS C or better is maintained as identified in the Traffic Impact Analysis prepared for the project.
- The Specific Plan area provides no access across the Mojave River to I-15. However, construction of Tussing Ranch Road will reduce travel times for those traveling Deep Creek Road to the Jess Ranch Development.
- Parking will be developed pursuant to the Town's requirements for single family residential uses.

GOAL C-2: Develop a circulation plan and other programs which are financially, technically, and legally implementable, both at the local and regional level.

Policy C-2.1: Encourage full citizen participation in all aspects of transportation planning and its development process.

Policy C-2.2: Develop and implement transportation programs which maximize the use of available funding from local, State and Federal funds, subsidies and grants for circulation purposes.

Policy C-2.3: Provide for Cost Recovery Districts and/or other financing methods which will enable landowners to provide transportation infrastructure necessary to ensure LOS C



operation in areas where such infrastructure is unavailable. Benefit fees collected from future development in these areas can contribute to costs incurred.

Consistency:

- Citizens are able to participate in the planning process for the Specific Plan area via public hearings held before the Town Planning Commission and Town Council.
- No public funds will be utilized for development of the transportation system within the Specific Plan Area.
- Development of this Specific Plan will provide transportation infrastructure; therefore, there is no need for Cost Recovery Districts and/or other financing methods.

GOAL C-3: Develop a circulation system which supports the comprehensive goals of the Town, which is integrated with land use planning, and which ensures that the system is responsive to the needs of the community.

Policy C-3.1: Design circulation improvements which are compatible with the desired natural environment.

Policy C-3.2: Maintain a circulation system which provides access and mobility opportunities to residential neighborhoods, employment, shopping, and health services.

Policy C-3.3: Design and construct transportation corridors that are easy to follow and meet traffic safety standards.

Policy C-3.4: Design each arterial with sufficient capacity to accommodate anticipated traffic based on intensity of planned land uses.

Policy C-3.5: Coordinate the Town of Apple Valley's circulation needs with those of adjacent jurisdictions, transit systems and regional highway facilities.

Policy C-3.6: Programming of street widening shall be done so as to cause the least impact on existing primary structures excluding signs and fences. Special reduced street sections, as defined in the "street classification system," shall be applied in cases where street dedications and/or widening may impact primary structures.

Consistency:

- The circulation improvements proposed contain not only provisions for motor vehicles, but also non-motorized vehicles and equestrian use. All of these uses are compatible with the natural environment of the area.
- The proposed circulation system accesses major roadways (Tussing Ranch and Deep Creek Roads, and Wren Street) providing access to all other residential neighborhoods, employments, shopping, and health services offered.
- The Tussing Ranch and Deep Creek Roads corridors will be developed to meet traffic safety standards. The existing alignments will be redesigned upon approval of Town Engineer.
- Tussing Ranch and Deep Creek Roads will be developed to Town standards to accommodate traffic, as identified in the 1998 General Plan Circulation Element in

that Mitigation Measures are required of tentative tract maps to improve the street and roadway system to serve the proposed Deep Creek Estates and the Town of Apple Valley.

- Tussing Ranch and Deep Creek Roads will be developed to Town standards to accommodate traffic, as identified in the 1998 General Plan Circulation Element in that Mitigation Measures are required of Tentative Tract Map No. 16922 to improve the street and roadway system to serve the proposed Deep Creek Estates and the Town of Apple Valley.
- No structures exist on the site; therefore, street widening and development will not impact the site and will be undertaken in such a manner as to minimize impact to surrounding sites.

GOAL C-4: Improve public transit services which provide mobility for Town residents as well as providing an alternative to the personal automobile.

Policy C-4.1: Transit funds should be used to improve response times within existing service territories.

Policy C-4.3: Fixed route bus service expansion should be considered as demand increases along designated transit corridors.

Consistency:

- No transit funds will be utilized for this development.
- Tentative Tract Map No. 16922 shall provide street systems that support transit services provided by Victor Valley Transit Authority (VVTA). When VVTA determines that funding is available for expanded transit service then street systems in DEEP CREEK ESTATES will be supportive, thus complying with Town of Apple Valley's 1998 General Plan Circulation Element. Bus turnouts would be required and shelters as necessary at any new bus stop locations.

GOAL C-5: Consider within the General Plan an area-wide system of equestrian, hiking and bicycling trails, linking to appropriate parks at existing and new developments, and the trail systems of adjacent jurisdictions. Time frames for development of the system shall be linked to the development of the properties affected by the trail system. Initial emphasis shall be placed on existing trails within developed areas.

Policy C-5.1: The Town shall, as appropriate and in conjunction with fee owners, designate washes, channels, utility corridors, and transportation rights-of-way as major elements of the open space/recreation network. This network shall provide a link with other open spaces and recreation areas within the Town and with adjacent jurisdictions' recreation plans.

Policy C-5.2: Equestrian uses and facilities are encouraged adjacent to the lifeline trail system.

Consistency:

- The existing drainage channel is proposed to be utilized as a Drainage and Recreation Trail Easement with access roads/trails along both sides of the channel. This trail will provide access to the Lifeline Equestrian Trails along Tussing Ranch and Deep Creek Roads.
- The Specific Plan proposes a portion of the development to be utilized by and for equestrian uses, including lots zoned for the keeping of horses, trail easements along rear property lines providing access to the equestrian trails located along the public rights-of-ways, and development of lifeline equestrian trails along Tussing Ranch and Deep Creek Roads.

Goal H-1: Encourage a range of housing by location, type, and price to meet the growth needs of the Town.

Policy H-1.1: Encourage a variety of residential development opportunities in Apple Valley, ranging from very low density (1.0 dwelling unit per 5 acres) to medium density (10 units per acre), on the Land Use Policy Map.

Policy H-1.2: Encourage the development of housing for the elderly by offering incentives such as density increases and reductions in parking requirements. Coordinate with local lending institutions to ensure the availability of financing for senior housing projects and encourage congregate care facilities.

Policy H-1.3: Encourage the development of residential units which are accessible to handicapped persons or are adaptable for conversion to residential use by handicapped persons.

Policy H-1.5: Allow for the development of second dwelling units in residential zones, subject to the availability of adequate infrastructure.

Policy H-1.6: Permit the development of manufactured housing in all residential zones. Preserve existing mobile homes.

Policy H-1.7: Encourage the construction of planned residential developments under Specific Plan guidelines in Apple Valley.

Policy H-1.8: Encourage the development of a full range of housing, including housing for moderate and upper-income households in Apple Valley.

Policy H-1.9: Continue to facilitate timely permit and development plan processing for residential construction. Allow priority development review processing for low- and moderate-income housing applications, as well as housing for the elderly.

Policy H-1.10: Support and encourage local developers to participate in County-sponsored mortgage revenue bond and scattered site housing programs. Encourage landlords to list rental units with the County Housing Authority.

Consistency:

- The Specific Plan for DEEP CREEK ESTATES provides residential single-family homes on minimum half (½)-acre lots consistent with the General Plan. The Town of Apple Valley allows a variety of house sizes to be built. For example a minimum 1,200 square foot home or a 5,000 square foot home could be built on a half (1/2) acre lot. Because of the construction cost difference between the two examples, it

demonstrates that a variety of home prices can be established. A smaller house such as 1,200 square feet, in theory, could cost less than to construct a 5,000 square foot home. Land cost is relatively the same but construction cost is the variable in creating a variety of housing stock within this community. Thus, Deep Creek Estates provides an opportunity to create a variety of homes with a broader range of home prices within the development boundary.

- No incentives are proposed for development of this Specific Plan.
- New construction will meet or exceed existing buildings codes which are increasing aware of issues and challenges of universal design and accessible issues.
- Second dwelling units are permitted in compliance with the Town of Apple Valley Development Code.
- The proposed Tentative Tract submitted in conjunction with this Specific Plan does not contemplate the use of manufactured housing.
- This proposal includes a Specific Plan, allowing to Town to attain this Policy.
- The Specific Plan for DEEP CREEK ESTATES provides residential single-family homes on half (½)-acre lots consistent with the General Plan. The Town of Apple Valley allows a variety of house sizes to be built. For example a minimum 1,200 square foot home or a 5,000 square foot home could be built on a minimum of half (1/2) acre lot. Because of the construction cost difference between the two examples, it demonstrates that a variety of home prices can be established. A smaller house such as 1,200 square feet, in theory, could cost less than to construct a 5,000 square foot home. Land cost is relatively the same but construction cost is the variable in creating a variety of housing stock within this community. Thus, Deep Creek Estates provides an opportunity to create a variety of homes with a broader range of home prices within the development boundary.
- This development does not discourage the facilitation of timely permits and development plan processing for residential construction or to allow priority development review processing for low- and moderate-income housing applications, as well as housing for the elderly
- This development does not discourage prospective home buyers from pursuing housing purchase programs.

Goal H-3: Preserve and enhance the quality of residential neighborhoods in Apple Valley, and ensure that new housing is sensitive to the existing natural and built environment.

Policy H-3.2: Prohibit new residential development to front on major arterial highways without adequate setbacks and buffering.

Policy H-3.6: Prohibit housing development in areas subject to significant geologic, flooding, noise and fire hazards, and in environmentally and archaeologically vulnerable areas.

Policy H-3.7: Accommodate new residential development which is coordinated with the provision of infrastructure and public services.

Policy H-3.8: Encourage to the greatest extent feasible the use of energy-conservation devices and passive design concepts that make use of the natural climate to increase energy efficiency and reduce housing costs.

Policy H-3.9: Regularly examine new residential construction methods and materials, and upgrade the Town's residential building standards as appropriate.

Policy H-3.10: Encourage neighborhood watch programs that promote safety and protection in residential neighborhoods.

Consistency:

- This Specific Plan does not allow single family residences to front onto Tussing Ranch Road or Deep Creek Road. In addition, it provides adequate buffering for single family residences along Tussing Ranch and Deep Creek through larger lots, installation of a twelve (12)-foot lifeline equestrian trail along each roadway, along with landscaping and/or earthen berms, sidewalks, and a split rail fencing. Buffering along Wren Street is provided by one (1) acre parcels and front yards landscaping.
- The public transportation system has stops within the Solera/Jess Ranch development at this time, and VVTA may request its extension into this Specific Plan Area. Recreational resources in the area will include improvement of the Drainage & Recreational Trail Easement, as well as Lot A, for recreational opportunities. Further, the development is in close proximity to the Ashwood Golf Course.
- The Specific Plan Area is not subject to geologic or fire hazards. While the Specific Plan Area is not subject to flooding, the existing drainage channel will be improved as a Drainage and Recreation Trail Easement. Noise will be address as identified within the Acoustical Analysis prepared by Gordon Bricken and Associates on April 26, 2006, as well as installation of a 12-foot lifeline equestrian trail, landscaping, earthen berms, sidewalk, and decorative block wall and/or other sound attenuation alternatives. A Biological Assessment was prepared by Altec Land Planning in September 2004 which evaluated the site for biological resources, and found that none of the species evaluated were found on the site. The Chambers Group conducted an evaluation of cultural evaluation of the site reported in the "Cultural Resources Inventory of 80 Acres: Tentative Tract 16922, Apple Valley, San Bernardino County, California" prepared December 2005. No materials of historical of cultural significance were located as part of this evaluation; therefore, no preservation is required.
- The Specific Plan requires the extension and installation of all infrastructures to serve the site.
- Energy-conservation devices and passive design concepts are required by the Uniform Building Code and will be incorporated into this development.
- Examination of construction methods and materials, and establishment of neighborhood watch programs are within the purview of the Town of Apple Valley.

Goal H-4: Promote equal opportunity for all residents to reside in the housing of their choice.

Policy H-4.1: Affirm a proactive posture that will assure that unrestricted access is available to the community.

Policy H-4.2: Prohibit practices that restrict housing choice by arbitrarily directing prospective buyers and renters to certain neighborhoods or types of housing.

Policy H-4.3: Provide fair housing information at Town Hall, to inform both landlords and tenants of their rights and responsibilities.

Consistency:

- The Specific Plan for DEEP CREEP ESTATES allows unrestricted access for all members of the community to reside within the development.
- The Specific Plan does not direct prospective buyers and renters to specific neighborhoods or types of housing.
- The provision of fair housing information is within the purview of the Town of Apple Valley.

Goal H-5: Maintain the Development Code to support Apple Valley housing objectives.

Policy H-5.3: Promote the inclusion of open space and parks within residential communities and seek to increase after school and other recreational programs at parks.

Policy H-5.6: Continue to cooperate with non-profit organizations to provide emergency shelter for the homeless in the Town.

Consistency:

- The Specific Plan for Deep Creek Estates includes a park on Lot "A" which will provide landscaping, shading, seating, water, and hitching posts.
- The provision of emergency shelter for the homeless is within the purview of the Town of Apple Valley.

Goal H-6: Encourage homeownership opportunities.

Policy H-6.1: Provide first-time homebuyer program as a tool to increase affordable homeownership opportunities for low and moderate income persons.

Policy H-6.2: Participate as a member of the Pacific Housing Finance Authority in their Lease Purchase Homeownership Program.

Policy H-6.3: Participate in California Cities Homeownership Authority's Lease Purchase Homeownership Program.

Consistency:

- Any prospective homebuyers, who qualify for any assistance program offered by the Town of Apple Valley, may utilize said program for the purchase of a home within the DEEP CREEK ESTATES Specific Plan.

## OPEN SPACE / CONSERVATION

GOAL OSC-1: The Town will conserve and protect natural resources within the planning area.

Policy OSC-1.1: The Town will cooperate with Federal, State and County governments and local agencies concerning the maintenance and improvement of the quality and quantity of local and regional groundwater resources.

Policy OSC-1.2: New developments will be required to utilize measures designed to conserve water resources including low flow irrigation and plumbing facilities.

Policy OSC-1.3: The Town shall seek to reduce per capita water consumption by requiring the use of planned landscapes in new developments, and by requiring review of all new agricultural and mining uses related to water.

Policy OSC-1.4: The Town shall use and promote reclaimed water for irrigation in parks, golf courses, agricultural uses, recreation areas and industrial uses, as well as from residential and other urban uses where practical and economically feasible.

Policy OSC-1.5: The Town shall seek to reduce soil erosion caused by wind and water. Erosion control measures shall be included as a component of a grading plan and measures to assure compliance for agricultural and mining uses.

Policy OSC-1.6: The Town shall only allow types of development and construction practices which properly control grading and other impacts on landforms within the hill areas of Apple Valley.

### Consistency:

- This Specific Plan, and accompanying tentative tract map(s), will be required to implement Federal, State, and local measures to protect groundwater.
- This Specific Plan, and accompanying tentative tract map(s), will be required to implement Federal, State, and local measures to conserve water by implementation of the Town's Landscaping Ordinance and the Uniform Building Code.
- This Specific Plan, and accompanying tentative tract map(s), will be required to implement Federal, State, and local measures to conserve water by implementation of the Town's Landscaping Ordinance.
- The water purveyor serving this Specific Plan Area does not currently provide or anticipate providing facilities for reclaimed water use in landscaped areas. Therefore, this Specific Plan does not incorporate provisions for the installation of dual piping for use of reclaimed water.
- Mass grading is not proposed for Phase Nos. 1 and 2 of the Specific Plan area to allow for individualized custom home design, and lots will be graded no more than thirty (30) feet surrounding the building pad. Mass grading will be required for Phase No. 3 in order to address drainage concerns and to improve line-of-sight conditions at the intersection of Deep Creek and Tussing Ranch Roads.

GOAL OSC-2: The Town will endeavor to preserve significant mature native trees, native vegetation, landforms and wildlife habitat within the planning area.

Policy OSC-2.1: The Town will only allow types and patterns of development which will minimize destruction of, or damage to, significant biotic resources, such as wildlife corridors along the Mojave River and within BLM designated conservation areas.

Policy OSC-2.2: The Town will encourage the planting of native species of trees and plants to enhance the environment.

Policy OSC-2.3: Require, whenever possible, the preservation and or relocation of Joshua Trees.

Consistency:

- This Specific Plan complies with the Town of Apple Valley's Development Code 2000 Chapter 9.76.040 Joshua Tree ordinance in the relocation and protection of Joshua Trees. Subsequent development shall comply prior to grading permit issuance with the mitigation measured as delineated in the Mitigated Negative Declaration.

GOAL OSC-3: The Town will promote and encourage energy efficiency and the use of renewable energy resources.

Policy OSC-3.1: The Town will encourage the use of alternate energy sources, including passive solar, in industrial, commercial and residential developments.

Policy OSC-3.2: New developments will be required to utilize design techniques which conserve energy.

Consistency:

- The Specific Plan will be developed according to the provisions of the Uniform Building Code which require the installation of measures to conserve energy.

GOAL OSC-4: The Town will encourage and support the preservation of historic and cultural resources.

Policy OSC-4.1: The Town will require that archaeological resources in the planning area are preserved or salvaged if threatened by new development.

Policy OSC-4.2: The Town will require that prehistoric and historic archaeological resources, and historic structures, will be inventoried in identified areas and evaluated according to CEQA regulations and appropriate California Office of Historic Preservation guidelines prior to the adoption of mitigation measures and the acceptance of conditions of approval and permit approvals.

Consistency:

- The Specific Plan Area was evaluated by The Chambers Group, said evaluation being reported in the "Cultural Resources Inventory of eighty (80) acres: Tentative Tract Map No. 16922, Apple Valley, San Bernardino County, California" prepared



December 2005. No materials of historical or cultural significance were located as part of this evaluation; therefore, no preservation is required

GOAL OSC-5: The Town will continue to emphasize the maintenance of, and access to, open space in the planning area.

Policy OSC-5.1: The Town will seek to establish a balance of natural open space and improved recreational open space.

Policy OSC-5.2: The Town shall implement, and shall cooperate with other jurisdictions to implement measures to preserve and protect significant natural environments and areas designated for open space preservation.

Consistency:

- The Deep Creek Estates Specific Plan provides for open space use through the Drainage & Recreation Trail Easement as well as the recreation area provided within Lot "A".

GOAL OSC-6: Recreational facilities are recognized as important to meet the needs of all segments of the community for recreational activities, relaxation, and social interaction.

Policy OSC-6.1: The Town may require the development of recreation areas within new residential developments.

Policy OSC-6.2: The Town will encourage development of additional cultural facilities to meet the needs of the community.

Consistency:

- The Deep Creek Estates Specific Plan provides for open space use through the Drainage & Recreation Trail Easement as well as the recreation area provided within Lot "A". These facilities will aid in meeting the needs of the equestrian community.

GOAL OSC-7: The Town shall preserve the integrity, function, productivity, and long term viability of environmentally-sensitive habitats and significant geological features throughout the planning area as required by law.

Policy OSC-7.1: The Town shall protect and preserve significant habitats and geological features.

Consistency:

- A Biological Assessment was prepared by Altec Land Planning in September 2004 which evaluated the site for biological resources, and found that none of the species evaluated or their habitats were found on the site. There are no significant geological features located on the site.

Goal OSC 11: Maintain the rural, open space atmosphere of the Town of Apple Valley.

Policy 11.1: Require more open space dedication from higher density residential developments.

Consistency:

This Specific Plan ensures compliance with the minimum half (1/2) acre lot requirement for all residential development in the Specific Plan area boundary. The Specific Plan also designates a Neighborhood Recreational/Equestrian area, with Life Line and Recreational (Equestrian) Trails and Drainage area components.

Goal OSC-12: Provide park and recreational facilities to adequately serve the residents of the Town of Apple Valley.

Policy OSC 12.1: Develop park land and recreational programs to serve the needs of the community.

Policy OSC 12.2: Adhere to the development of park land per the Council adopted ordinance implementing the State adopted Quimby Act.

Policy OSC 12.3: Create an adequate amount of open space to upgrade neighborhood development, give community scale, focus and identity to neighborhoods, and to achieve a natural sense of openness as an integral part of urbanized areas.

Policy OSC 12.4: Require and develop quality park land and recreational facilities within the Town in conjunction with anticipated growth.

Policy OSC 12.5: Increase the supply of park land in the Town, improving the standards of park space per resident through public and private acquisition and improvements. Aim to provide a minimum of five (5) acres of local recreation land, public and private, for each thousand permanent residents within the Town.

Policy OSC 12.6: Park(s) and recreation facilities should be distributed throughout the entire Town as related parts of a unified, balanced system, with each site centrally located within its service area and establish as many multi-purpose facilities as possible.

Policy OSC 12.7: Supplement park and recreation needs with private facilities.

Policy OSC 12.8: Preserve existing park space and recreational facilities, especially open turfed areas and trees, while allowing for redesign, reconfiguration and replacement of existing spaces and facilities to increase their recreation potential and usability.

Policy OSC 12.9: Specialized parks may be established to maintain scenic open space or natural settings, provide open space linkages, provide a haven for wildlife and plant life, or to protect the public health, safety and welfare.

Consistency:

- The Specific Plan designates a Neighborhood Recreational/Equestrian area, with Life Line and Recreational (Equestrian) Trails and Drainage area components to meet the needs of the community.

- This Specific Plan will contribute park development fees (Quimby Act) towards the construction of future parks, as consistent with the Town's Parks and Recreation Master Plan

Goal OSC 13: Maintain a quiet and serene atmosphere in the Town.

Policy OSC 13.1: Provide sufficient buffer between existing and new park facilities or recreational activities to preserve and protect existing residential development from intrusion of such facilities or programs.

Consistency:

- This Specific Plan complies with the Town's Noise Standards. In addition, Lot 26 which is located north of the proposed Neighborhood Recreation/Equestrian area is of sufficient width to allow the residence to be set back from the property line to reduce associated intrusion generated by use of the Park(s).

Goal OSC 14: Maintain the Town's Dark Sky Policy.

Policy OSC 14.1: Provide sufficient control and limit hours of operation for existing and new park facilities or recreational activities to preserve and protect existing residential development from intrusion of such light sources from these facilities or programs.

Policy OSC 14.2: Ensure that all parks are adequately illuminated for safe use at night if open and to be in conformance with the Town's "Night Sky" policy. Lighting shall be designed to not spill onto adjacent properties or be a hazard to motorists or adjacent streets.

Consistency:

- The proposed Neighborhood Recreation/Equestrian area will not provide lighting for night use of the park.

Goal OSC 15: Establish criteria to evaluate park development proposals, making sure that the criteria contains the flexibility necessary to recognize design and terrain uniqueness or a particular site.

Policy OSC 15.1: Acquire or reserve land for park facilities as far in advance of development as possible.

Policy OSC 15.2: Require that new residential development provide recreational or open space facilities on-site or contribute fees to the public development of additional facilities to offset increased demands generated by the future resident population.

Policy OSC 15.3: Require that new commercial development provide open space facilities on-site for passive or active recreation or contribute fees for the public development of such uses.

Policy OSC 15.4: Require that active recreation areas provide for shade and water to encourage park use in our desert climate. Facilities should allow for late-day and limited night use.

Consistency:

- No community park land is being offered as part of this Specific Plan.
- The Specific Plan designates a Neighborhood Recreational/Equestrian area, with Life Line and Recreational (Equestrian) Trails and Drainage area components to meet the needs of the community, as well as contributes park development fees (Quimby Act) towards the construction of future parks, consistent with the Town's Parks and Recreation Master Plan
- The Neighborhood Recreational/Equestrian area is proposed to provide shade as well as water.

Goal OSC 16: Maintain open space for the protection of public health and safety.

Policy OSC 16.1: Design and develop park facilities that protect life and property of the citizens of the Town of Apple Valley using park facilities or engaging in recreational activities from natural disasters.

Policy OSC 16.2: For public health and safety, identify and control development of park facilities and use of area for recreational activities within areas that are designated potential hazard areas due to flooding, seismic, land slides, fire and other natural hazards.

Consistency:

- The Neighborhood Recreational/Equestrian area is not located in a designated potential hazard area.

Goal OSC 17: Develop and maintain pedestrian/bicycle/equestrian trails which provide connections with major activity area.

Policy OSC 17.1: Provide access to trails, parks and other public open space areas.

Policy OSC 17.2: Retain and enhance existing recreational developments.

Policy OSC 17.3: Develop equestrian and bicycle trails and facilities that provide linkage within and throughout the Town, and between the Town, adjacent city trails, park and ride facilities and major areas of interest.

Policy OSC 17.4: Upgrade existing recreational trails to meet Town standards and community needs.

Policy OSC 17.5: Equestrian facilities such as private and commercial stables and trail head staging areas, with parking for trailers and off loading of horses, should be considered for development in easily accessible areas of the Town, and wherever possible, in conjunction with other open space facilities.

Policy OSC 17.6: In areas where minimum standards cannot be met for small neighborhood parks, mini parks should be encouraged to help meet the needs of the residents in the immediate area.

Consistency:

- This Specific Plan supports trails that connect to the Multi-use and Equestrian Life Line trails by providing trails within the equestrian portion of the development, and along the Drainage & Recreation Trail Easement. These trails will connect to the lifeline trails along Tussing Ranch and Deep Creek Roads which will be extended when development occurs on adjoining parcels
- Stables, trail head staging areas, and parking for trailers and off loading of horses, is not contemplated as part of this development.
- The Neighborhood Recreational/Equestrian area is being provided to meet the needs of the community.

Goal OSC 18: Develop new parks in areas which are inadequately served relative to current standards.

Policy OSC 18.1: Provide neighborhood parks within a one-half mile radius service area.

Policy OSC 18.2: Land dedication is preferred over in-lieu fees for acquisition of park land.

Policy OSC 18.3: Provide community parks within a one mile radius service area.

Policy OSC 18.4: Provide a wide range of recreational activities

Consistency:

- The Neighborhood Recreational/Equestrian area is being provided to meet the needs of the community.
- Since a Neighborhood Recreational/Equestrian area is being provided, this Specific Plan will contribute park development fees (Quimby Act) towards the construction of future parks, as consistent with the Town's Parks and Recreation Master Plan.
- The Neighborhood Recreational/Equestrian area will allow for picnics, equestrian activities, and other family and community events.

Goal OSC 19: Provide parks and recreation at a community and neighborhood level according to the user needs and accessibility.

Policy OSC 19.1: Provide opportunities for the citizens and visitors of Apple Valley to participate in a variety of recreational activities.

Policy OSC 19.2: Support a program in which citizens can participate in the acquisition, planning, construction and development of parks.

Consistency:

- Since DEEP CREEK ESTATES Specific Plan is a neighborhood park designed to meet the needs of the community, it will not provide activities for all citizens and visitors of Apple Valley.

- DEEP CREEK ESTATES Specific Plan is not proposing to provide land for a community park, which would offer the opportunity for citizen participation.

Goal OSC 20: Maintain quality recreation services and programs.

Policy OSC 20.1: Provide recreation services which meet the needs and interests of a wide segment of the community.

Policy OSC 20.2: Provide adequate resources, facilities and staff to deliver the recreation services and programs.

Policy OSC 20.3: Provide services and programs within the context of wise use of facilities and resources.

Policy OSC 20.4: Provide specialized programs for children, adults, disabled individuals, senior citizens and members of cultural and/or minority groups.

Policy OSC 20.5: Cooperate with private, commercial and public agencies, organizations and experts to provide diversified programs while minimizing duplication of effort.

Consistency:

- The Neighborhood Recreational/Equestrian area is being provided to meet the needs of the community.
- Since a Neighborhood Recreational/Equestrian area is being provided, this Specific Plan will contribute park development fees (Quimby Act) towards the construction of future parks, as consistent with the Town's Parks and Recreation Master Plan.

Goal OSC 21: Create a diversity of programs and facilities to meet the needs of all individuals and groups in the Town of Apple Valley, with special attention given to the elderly, handicapped and economically disadvantaged.

Policy OSC 21.1: Conduct ongoing needs assessment and evaluation of demands for recreational activities and public meeting facilities and modify programs where necessary to meet these demands, provided that adequate funding is available.

Policy OSC 21.2: Notify the Town's residents of the types of recreation and programs available and encourage their participation.

Policy OSC 21.3: Incorporate areas for both active and passive recreation in parks and facilities and ensure that these are accessible to all age groups, as practical.

Consistency:

- The Neighborhood Recreational/Equestrian area is being provided to meet the needs of the community.
- Since a Neighborhood Recreational/Equestrian area is being provided, this Specific Plan will contribute park development fees (Quimby Act) towards the construction of future parks, as consistent with the Town's Parks and Recreation Master Plan.

Goal OSC 23: Provide park and recreational facilities which are designed, landscaped and maintained to promote a high quality of recreational experience.

Policy OSC 23.1: Monitor and review access, design, landscape development and maintenance of parks, ensuring that quality standards are established commensurate with intended park and facility function and their impact on the surrounding area.

Policy OSC 23.2: Design parks and site their activities, buildings, outdoor facilities, people-gathering areas, lighting, parking areas and other elements so that they do not adversely affect adjacent uses.

Policy OSC 23.3: Restrict and control nighttime park use so that adjacent residences are not adversely affected.

Policy OSC 23.4: Encourage variety in the design of park facilities to enhance the lifestyle of residents to be served.

Policy OSC 23.5: Install or replace existing landscaping where it is severely deteriorated, inappropriately located for park activities or incompatible with other landscape and adjacent uses.

Policy OSC 23.6: Ensure that new development of buildings, open air facilities and landscape is unified, functionally related to improve efficiency and compatible with adjacent uses, and that landscaping locations and species are coordinated with architectural and site design.

Consistency:

- The Neighborhood park will be designed so that access is provided to the residents of the community.
- The Neighborhood park will be designed so as to reduce the impact to residences.
- The park will not be designed to provide night use.
- The park will be designed for family and equestrian uses of the community.
- Maintenance of the park will be conducted with a Master Homeowners Association.

Goal OSC 24: Ensure that the costs of park and recreation facilities and programs are borne by those who benefit and contribute to additional demands.

Policy OSC 24.1: Require developer contributions to provide parks and recreational facilities to offset additional demands brought about by new development.

Policy OSC 24.2: Accept gifts and dedications of parks and open space when the conditions of acceptance do not place an undue burden on the Town.

Policy OSC 24.3: Encourage the development of recreation programs by public and private sports organizations to involve more children and adults in outdoor recreation activity, using volunteers to operate and maintain programs whenever possible.

Policy OSC 24.4: Whenever feasible, the Town shall utilize joint power agreements with other public and/or private agencies for park development and maintenance.

Consistency:

- The developer of the DEEP CREEK ESTATES Specific Plan will construct the park, equestrian trails, and Drainage & Recreation Trail Easement.

Goal OSC 25: Protect the hiking, biking, jogging and horseback riding interests and needs in the Town by maintaining existing trails and by promoting the development and expansion of the Town's trail systems for the purpose of providing a safe and viable form of recreation and circulation.

Policy OSC 25.1: Acquire rights-of-way in fee or easement for the Town's trails systems, as depicted within the Open Space/Conservation Element of the adopted General Plan, and encourage its logical development, avoiding unrelated trail segments.

Policy OSC 25.2: Institute joint agreements and encroachment permits, where possible, with the public and private sectors (e.g., utility companies, water districts, development companies and homeowner associations) that control easements and unused rights-of-way for the purpose of incorporating such lands into permanent trail linkages throughout the Town.

Policy OSC 25.3: Develop trail standards, as necessary, that allow for a comprehensive and safe trail system, including adequate width and signage.

Policy OSC 25.4: Develop and adopt an inspection and maintenance program that addresses the condition, maintenance and safety of the trail system.

Policy OSC 25.5: Recognize the significance of open space and mountainous areas as a recreational asset, encouraging the development of equestrian and hiking trails. Such trails should avoid sensitive habitats and critical water sources for rare or endangered species.

Policy OSC 25.6: New residential developments shall be encouraged to incorporate appropriate equestrian and bike trail connections to the Town-wide recreational system.

Policy OSC 25.7: Provide for multiple-use trails where feasible unless safety considerations warrant facility separation.

Policy OSC 25.8: Provide appropriate supportive facilities related to recreation trails (rest stops, drinking fountains, restrooms).

Consistency:

- This Specific Plan will extend the Multi-Use and Equestrian Life Line Trail along Tussing Ranch and Deep Creek Roads along the south and east perimeter of the site to support the Town's trail system. It will also provide a Neighborhood Recreational/Equestrian/Drainage area, which will provide trails along both sides, and equestrian trails will be provided within the equestrian portion of the Specific Plan.

Goal OSC 26: Provide parks and recreational facilities which are designed, landscaped and maintained to promote destination recreational facilities and services.



Policy OSC 26.1: Design parks and recreational facilities to site their activities, buildings, outdoor facilities, people-gathering areas, site lighting, parking areas and other elements so that they provide and enhance destination recreational opportunities within the community.

Consistency:

- The Neighborhood Parks will be designed to be appealing to the residents of the community and meet their family, community, and equestrian needs.

## SAFETY

GOAL S-1: The Town will encourage development only in those areas without significant potential for risk to life and property.

Policy S-1.1: The Town will restrict development in those areas which are subject to flooding. Special geologic analysis will be required in hillside areas.

Policy S-1.2: Development within Alquist-Priolo Special Studies Zones shall be subject to the restrictions and requirements of the Special Studies Zones Act.

Policy S-1.3: Fire management plans shall be required for all new development in areas subject to wildfires, as determined by the Apple Valley Fire Protection District.

Consistency:

- The Specific Plan areas is not subject to flooding; however, the existing drainage channel will be improved to accommodate any flows directed into the development.
- The Specific Plan area is not within a Special Studies Zone.
- The Specific Plan area is not within an area subject to wildfires.

GOAL S-2: The health and well-being of the community and the physical safety of its structures shall be safeguarded.

Policy S-2.1: The Town will adopt a program to implement State requirements for the identification and reinforcement of unreinforced masonry buildings.

Policy S-2.2: The Town shall annually update the SEMS Multihazard Functional Plan to ensure that emergency shelters and emergency evacuation routes are responsive to changing community needs.

Consistency:

- All structures constructed as part of this Specific Plan are subject to Uniform Building Code provisions.

GOAL S-3: The Town will make an effort to minimize potential hazards to public health, safety, and welfare.

Policy S-3.1: The Town shall cooperate with and support in every way possible current Federal, State, and County agencies responsible for the enforcement of health, safety, and environmental laws.

Policy S-3.2: Development proposals shall be reviewed to determine the impacts of such development on emergency services.

Policy S-3.3: The Town shall ensure that the appropriate safety and construction standards are maintained in all new development.

Policy S-3.4: The Town shall encourage Neighborhood Watch programs to promote safety and discourage crime.

Consistency:

- This Specific Plan supports a future fire station location within the adjacent Jess Ranch (Solera) Community. The construction is determined by the Apple Valley Fire Protection District. The fire station location in the Jess Ranch Specific Plan area supports a reduced response time to the properties in south Apple Valley supporting the efforts of responding to emergency situations more quickly.

GOAL S-4: The Town will cooperate with adjacent jurisdictions, coordinate with emergency services providers, and make every effort to ensure that all residents, workers and visitors are protected from exposure to hazardous materials and wastes.

Policy S-4.1: The Town will cooperate with the enforcement of disclosure laws requiring all users, producers, and transporters of hazardous materials and wastes to clearly identify such materials at the site, and to notify the appropriate County, State and/or Federal agencies in the event of a violation.

Policy S-4.2: The Town will identify the location of roadways where hazardous

Consistency:

- The Deep Creek Estates Specific Plan does not involve the use of hazardous materials.
- Protection of the community from hazardous materials is within the purview of the Town of Apple Valley and the Apple Valley Fire Protection District.

## PUBLIC FACILITIES

GOAL PF-1: Ensure that existing and future land uses have a water supply system capable of adequately meeting normal and emergency demands to ensure the public health and safety of Town residents.

Policy PF-1.1: New development shall be constructed with adequate water supplies which protect the health and safety.

Policy PF-1.2: New development shall enhance local groundwater supplies through designs which promote on-site recharge and minimize impermeable ground coverage through landscaping, open space or recreation areas within a development.

Policy PF-1.3: Promote water conservation for all land uses through public education which addresses conservation practices such as reclaimed water use and, by example, through the operation of Town facilities.

Consistency:

- The developer of the Specific Plan will extend water service from Apple Valley Ranchos Water Company to provide water service to the community. In addition, water rights will be purchased and given to Apple Valley Ranchos as required.
- Landscaping will comply with the Town's Landscaping Ordinance requirements, including xeriscape landscaping and low-flow irrigation.

GOAL PF-2: Establish, extend, maintain and finance a safe and efficient wastewater collection, treatment and disposal system which maximizes treatment and water recharge, minimizes water use and work within applicable laws and regulations in an attempt to prevent groundwater degradation and contamination.

Policy PF-2.1: New development shall provide for the adequate collection, treatment and disposal of the wastewater it generates to ensure the Town's residents a safe and healthful environment.

Policy PF-2.2: New development shall bear the cost of new services and facilities required to meet the increased demand which it generates.

Policy PF-2.3: At a minimum, on-site wastewater treatment systems shall be designed and constructed to protect groundwater quality, and shall be designed and constructed in conformance with the adopted standards of the Lahontan Regional Water Quality Control Board.

Policy PF-2.4: The siting of sub-regional, reclamation/ treatment plant(s) in Apple Valley to relieve the dependence on the regional treatment facilities shall be promoted. Design capacity of sub-regional treatment facilities should be based upon projected land use densities as defined in the Land Use Element.

Policy PF-2.5: Private development shall participate in improvements to the sewage collection system and sub-regional treatment plant system, when developed, through sewer connection fees and construction of facilities.

Policy PF-2.6: Private development shall provide internal collection facilities necessary for land uses proposed in their projects as per Town policy. The Town may elect to waive dry sewer or sewer connection requirements where on-site facilities will not endanger groundwater supplies or where environmental conditions permit.

Consistency:

- The developer of the Specific Plan will provide sewer lines to provide wastewater collection to the community. Fees are collected by the Town for expansion of the existing wastewater system.

GOAL PF-3: Maintain adequate planning, maintenance and funding for solid waste collection, siting and construction of transfer and/or disposal facilities, operation of waste reduction and recycling programs, and household hazardous waste disposal programs and education, to be consistent with the County Solid Waste Management Plan and State law.

Policy PF-3.1: Waste reduction and recycling shall be promoted to achieve a twenty-five percent reduction in the solid waste stream by 1995, and reductions in compliance with State law requirements thereafter.

Policy PF-3.2: New industry shall provide for the proper disposal of any hazardous materials it generates.

Consistency:

- Waste disposal is contracted with the Town of Apple Valley and Burtec Industries, and includes both recyclable and non-recyclable items collection.

GOAL PF-4: Plan, design, construct, fund and maintain flood control facilities and systems adequate to support planned land uses, protect the lives and property of Apple Valley residents, and promote the public safety.

Policy PF-4.1: Provide for the adequate drainage and conveyance of local and regional storm runoff to protect the lives and property of residents.

Policy PF-4.2: Provide for the continued maintenance and inspection of local drainage devices and flood control facilities to ensure the proper functioning of these facilities during storm events.

Policy PF-4.3: New development shall bear the cost of new facilities and upgrades to existing facilities to accommodate the additional storm runoff caused by the development.

Policy PF-4.4: Require that adequate storm drain and flood control facilities be in place prior to the issuance of certificates of occupancy.

Policy PF-4.5: Limit new development, if necessary, until adequate flood control facilities are available to protect the development, or until mitigation is provided.

Policy PF-4.6: Designate, preserve and acquire land for necessary flood control facilities.

Policy PF-4.7: Construction of any structure intended for human occupancy within the 100-year flood plain as mapped by the Federal Emergency Management Agency (FEMA) must be adequately flood-proofed to eliminate potential risk of personal injury and property damage due to floodwaters, or the flood hazard must be removed prior to construction.

Policy PF-4.8: Natural drainage patterns will be generally maintained as feasible unless facilities have otherwise been designated.

Policy PF-4.9: At-grade street crossings of significant drainage courses should be avoided.

Consistency:

- The existing drainage channel will be improved as required by the Town of Apple Valley Master Plan of Drainage, the final drainage plan as determined by the Town Engineer.
- Maintenance of said facilities shall be provided through a Master Homeowners Association.

GOAL PF-5: Ensure the provision of adequate supplies of natural gas and electricity from public utility purveyors, and the availability of communications services, to residents of Apple Valley while protecting natural vistas and night skies.

Policy PF-5.1: Require that all new development served by natural gas install on-site pipeline connections to distribution facilities underground, unless such undergrounding is infeasible due to significant environmental or other constraints.

Policy PF-5.2: Provide for the continued development and expansion of communications systems including cable and, as feasible, fiber optics, for entertainment, education, culture, information access, two-way communication between government and residents and businesses, and other similar purposes.

Policy PF-5.3: Require that all new development install on-site telecommunication connections to distribution facilities underground, unless such undergrounding is infeasible due to significant environmental or other constraints.

Policy PF-5.4: The Town actively encourages and supports the undergrounding of all existing utility lines.

Consistency:

- The developer of the Specific Plan will extend gas service from Southwest Gas Company to provide gas service to the community.
- The developer of the Specific Plan will extend communication and telecommunication service from Verizon and Charter Communications to provide communication service and telecommunication service to the community.
- All utilities will be undergrounded, where feasible.

GOAL PF-6: Ensure infrastructure provision is planned and provided for in all new development, and that an integrated infrastructure planning, financing and implementation program is developed to protect and promote the public health and safety.

Policy PF-6.1: The Town shall coordinate the provision of all public utilities and services to ensure a consistent, complete and efficient system of service to the residents.

Policy PF-6.2: Facilities shall be designed and installed to further the health, safety and welfare of the Town.

Policy PF-6.3: New development shall provide appropriate dedications, improvements and fees so as not to burden the tax base of the Town.

Policy PF-6.4: New development projects must provide their own infrastructure, and participate in appropriate funding mechanisms, such as assessment districts, for more regional facilities.

Consistency:

- All infrastructure development will be completed by the developer of the Specific Plan.

## NOISE

GOAL N-1: The Town will incorporate noise considerations into its various decisions in order to mitigate existing adverse noise conditions and establish noise-compatible land use for future developments.

Policy N-1.1: The Town will establish acceptable limits of noise for various land uses throughout the Town, as well as measures to reduce interior noise levels.

Policy N-1.2: New residential development in those areas identified as being within areas designated as having a CNEL of 65 dB(A) or greater will be required to have a noise study performed to determine what level of sound insulation, if any, is required to meet the acceptable interior noise levels established by the Town.

Policy N-1.3: The Town will include noise-mitigation measures in the design of new roadway projects.

Policy N-1.4: Coordination among Town and County agencies involved in noise abatement will be established and maintained.

Policy N-1.5: The Town has developed Noise Ordinance which establishes a noise enforcement and regulation program, and sets standards for all types of noise.

Policy N-1.6: Noise-mitigation measures will be included in the design and approval process of any development located on property adjacent to railroads.

Consistency:

- The Tentative Tract Map will be subject to Chapter 9.73 Noise Control in the Town of Apple Valley Development Code 2000 and will comply with the Town's General Plan policies and the Mitigation Measures identified within the Mitigated Negative Declaration prepared for the Specific Plan project and the completed Acoustical Analysis.

**PLANNING COMMISSION RESOLUTION NO. 2007- 028**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMENDING THAT THE TOWN COUNCIL DENY THE SPECIFIC PLAN NO. 2004-002. THE SPECIFIC PLAN, “DEEP CREEK ESTATES” INCLUDES EIGHTY (80) ACRES OF SINGLE-FAMILY RESIDENTIAL AND RESIDENTIAL EQUESTRIAN, ONE (1) DWELLING UNIT PER MINIMUM HALF (½)-ACRE LOTS WITH SOME MINIMUM ONE (1) ACRE LOTS; FURTHER RECOMMENDING DENIAL OF GENERAL PLAN AMENDMENT 2004-002 TO CHANGE FROM THE GENERAL PLAN LAND USE DESIGNATION OF RESIDENTIAL LOW DENSITY (R-LD), ONE (1) DWELLING UNIT PER 2.5 TO 5.0 ACRES TO SPECIFIC PLAN (S-P) AND RECOMMENDS DENIAL OF ZONE CHANGE FROM RESIDENTIAL AGRICULTURE (R-A), ONE (1) DWELLING PER 2.5 TO 5.0 ACRE, ZONE DESIGNATION TO SPECIFIC PLAN (S-P) ZONE DESIGNATION OF AN EIGHTY (80) ACRE PARCEL GENERALLY LOCATED AT THE NORTHWEST CORNER OF TUSSING RANCH ROAD AND DEEP CREEK ROAD; SECTION 7, TOWNSHIP 4 NORTH, RANGE 3 WEST OF SAN BERNARDINO MERIDIAN; APNS 0434-201-14 and -48; AND RECOMMENDS DENIAL OF TENTATIVE TRACT MAP NO. 16922.**

**WHEREAS**, the Town of Apple Valley General Plan was adopted by the Town Council on October 27, 1998; and

**WHEREAS**, the Town of Apple Valley General Plan has been previously amended by the Town Council on the recommendation of the Planning Commission; and

**WHEREAS**, Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley was adopted by the Town Council on October 24, 2000; and

**WHEREAS**, Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley has been previously amended by the Town Council on the recommendation of the Planning Commission; and

**WHEREAS**, specific changes are proposed to the Land Use Element of the adopted General Plan of the Town of Apple Valley by amending the Land Use Designation for parcels generally located on a site bordered on the north by Wren Road, on the south by Tussing Ranch Road and on the east by Deep Creek Road. APNs 0434-201-14 and -48 (Exhibit A); and

**WHEREAS**, specific changes are proposed to Chapter 9.05, Section 9.05.040 “Adoption of the Official Zoning Districts Map” of Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley by amending the zoning designation of parcels generally located on a site bordered located on a site bordered on the north by Wren Road, on the south by Tussing Ranch Road and on the east by Deep Creek Road. APNs 0434-201-14 and -48 (Exhibit A);

**WHEREAS**, on, September 21, 2007, General Plan Amendment and Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922; were duly

noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

**WHEREAS**, based upon the State Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15270, that a project which is denied by the Town is Exempt from CEQA, and

**WHEREAS**, there is evidence before the Town that there is one (1) drainage course delineated as a “surface water driven ephemeral stream” and therefore considered to not be “Waters of the US” per criteria of the Army Corp of Engineer’s (ACOE). However, certain sensitive species may occupy the site and may be potential habitat according to a consulting biologist. In accordance with Section 711.4 of the Fish and Game Code, payment of a fee for a Mitigated Negative Declaration, if and when adopted, must be paid and collected by the Clerk of the Board of the County of San Bernardino; and

**WHEREAS**, on October 17, 2007 and January 16, 2008, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on General Plan Amendment and Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922, receiving testimony from the public; and

**WHEREAS**, the proposed General Plan Amendment and Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922 (Exhibit B) are inconsistent with Town of Apple Valley General Plan and Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley and will be detrimental to the health, safety and general welfare of the citizens of the Town of Apple Valley with the recommended modifications to the Specific Plan (Exhibit C).

**NOW, THEREFORE, BE IT RESOLVED**, that in consideration of the evidence presented at the public hearing, and for the reasons discussed by the Commissioners at said hearing, the Planning Commission of the Town of Apple Valley, California, finds and determines as follows and recommends that the Town Council make the following findings and take the following actions:

**Section 1.** Based upon the information contained within the Initial Study prepared in conformance with the State Guidelines to Implement the California Environmental Quality Act (CEQA), and in accordance with Section 15270, that denial of General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922, determines that the proposal is Exempt from CEQA.

**Section 2.** In consideration of the evidence received at the public hearing, and for the reasons discussed by the Commissioners at said hearings, the Planning Commission of the Town of Apple Valley, California, finds that General Plan Amendment and Zone Change No. 2004-002, Specific Plan No. 2004-002 (Exhibit C) and Tentative Tract Map No. 16922 (Exhibit B) are inconsistent with the Goals and Policies of the Town of Apple Valley adopted General Plan, adopt the required negative comments and findings recommended in the Staff Report for denial, and based upon those said negative findings, deny General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922.



*Specific Plan No. 2004-002, General Plan Amendment , Zone Change No. 2004-002 and Tentative Tract Map No. 16922*

*June 4, 2008 Planning Commission Meeting*

Approved and adopted by the Planning Commission of the Town of Apple Valley this 16<sup>th</sup> day of January, 2008.

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David Hernandez, Chairman

ATTEST:

I, Patty Hevle, 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 16<sup>th</sup> day of January, 2008, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

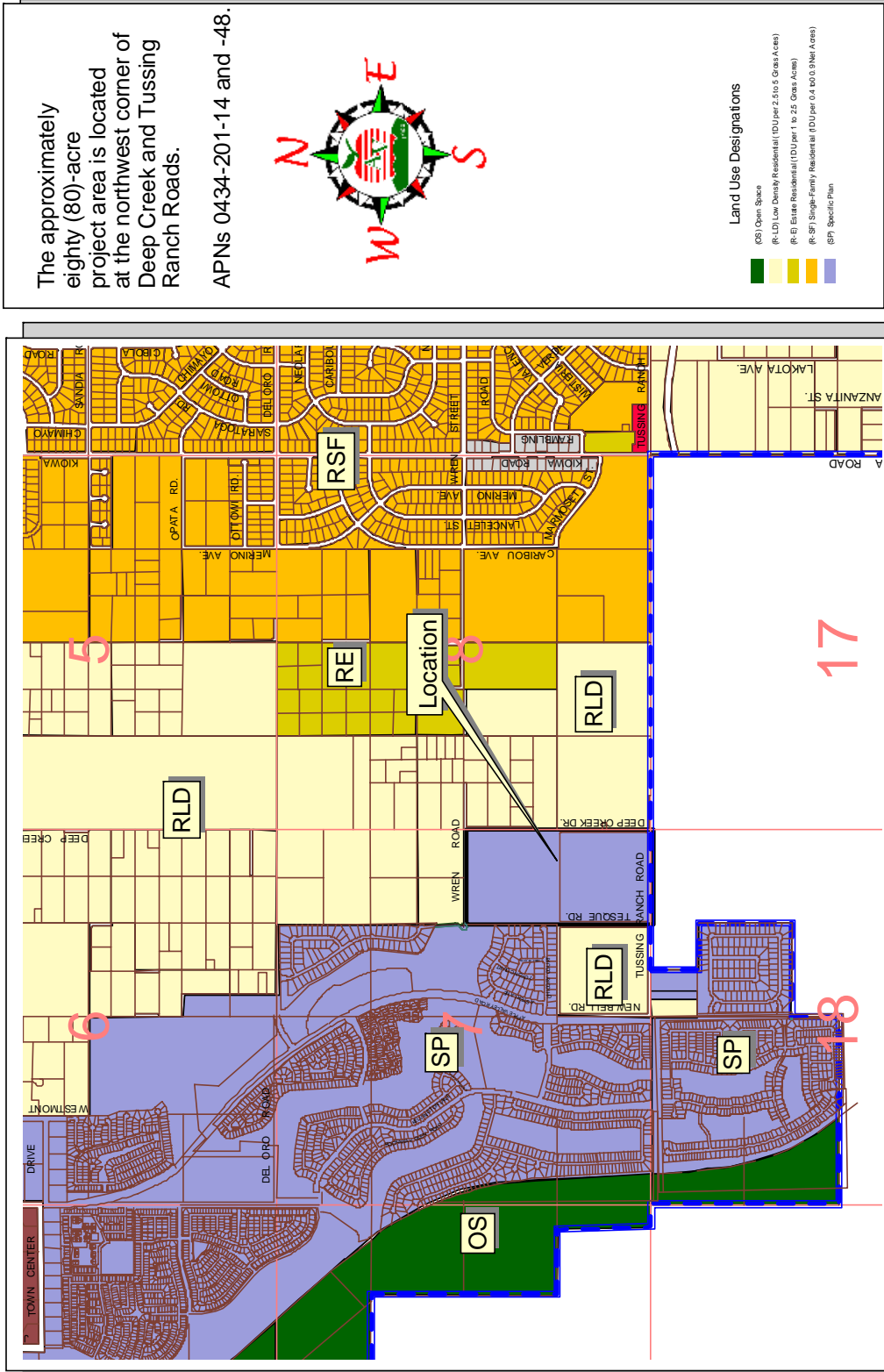
ABSTAIN:

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Patty Hevle, Planning Commission Secretary

**Exhibit "A" - Proposed General Plan**

**Proposed General Plan Land Use**
Deep Creek Estates
General Plan Amendment No. 2004-002



The approximately eighty (80)-acre project area is located at the northwest corner of Deep Creek and Tussing Ranch Roads.

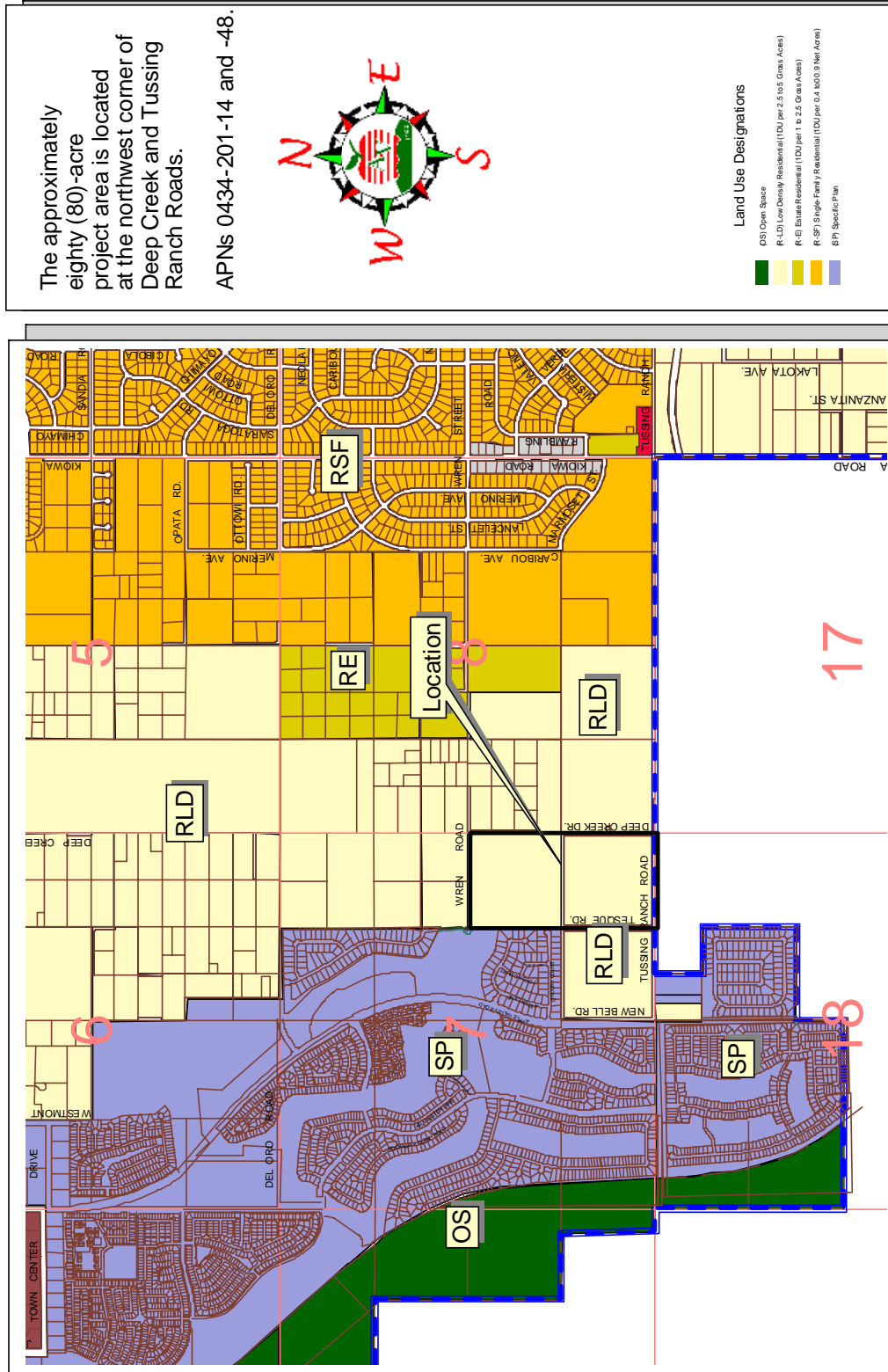
APNs 0434-201-14 and -48.

October 17, 2007

Exhibit "A" - Existing General Plan

Existing  
General Plan Land Use

Deep Creek Estates  
General Plan Amendment No. 2004-002

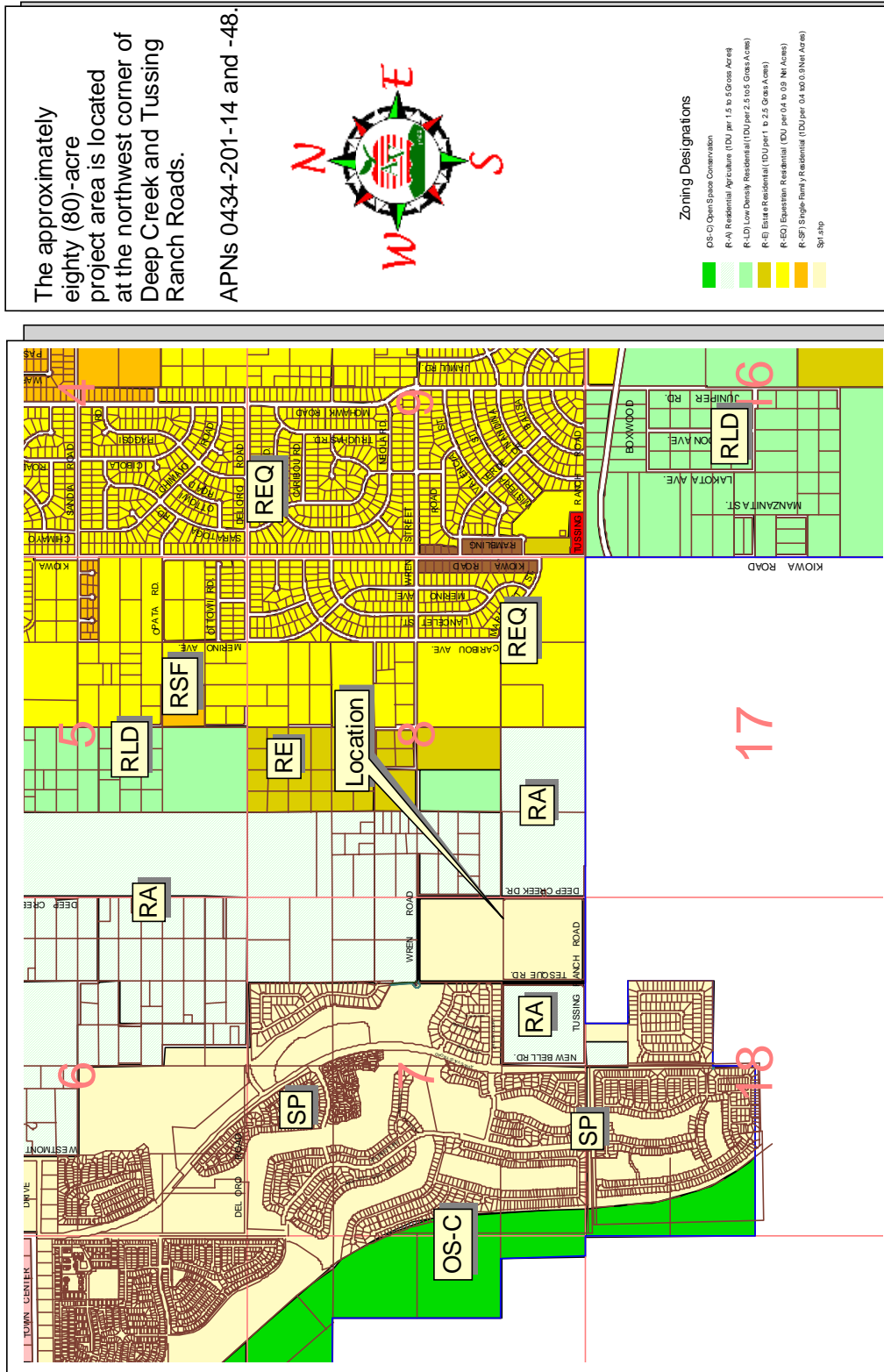


October 17, 2007

**Exhibit "A" - Proposed Zoning**

**Proposed Zoning Designation**

**Deep Creek Estates Zone Change No. 2004-002**



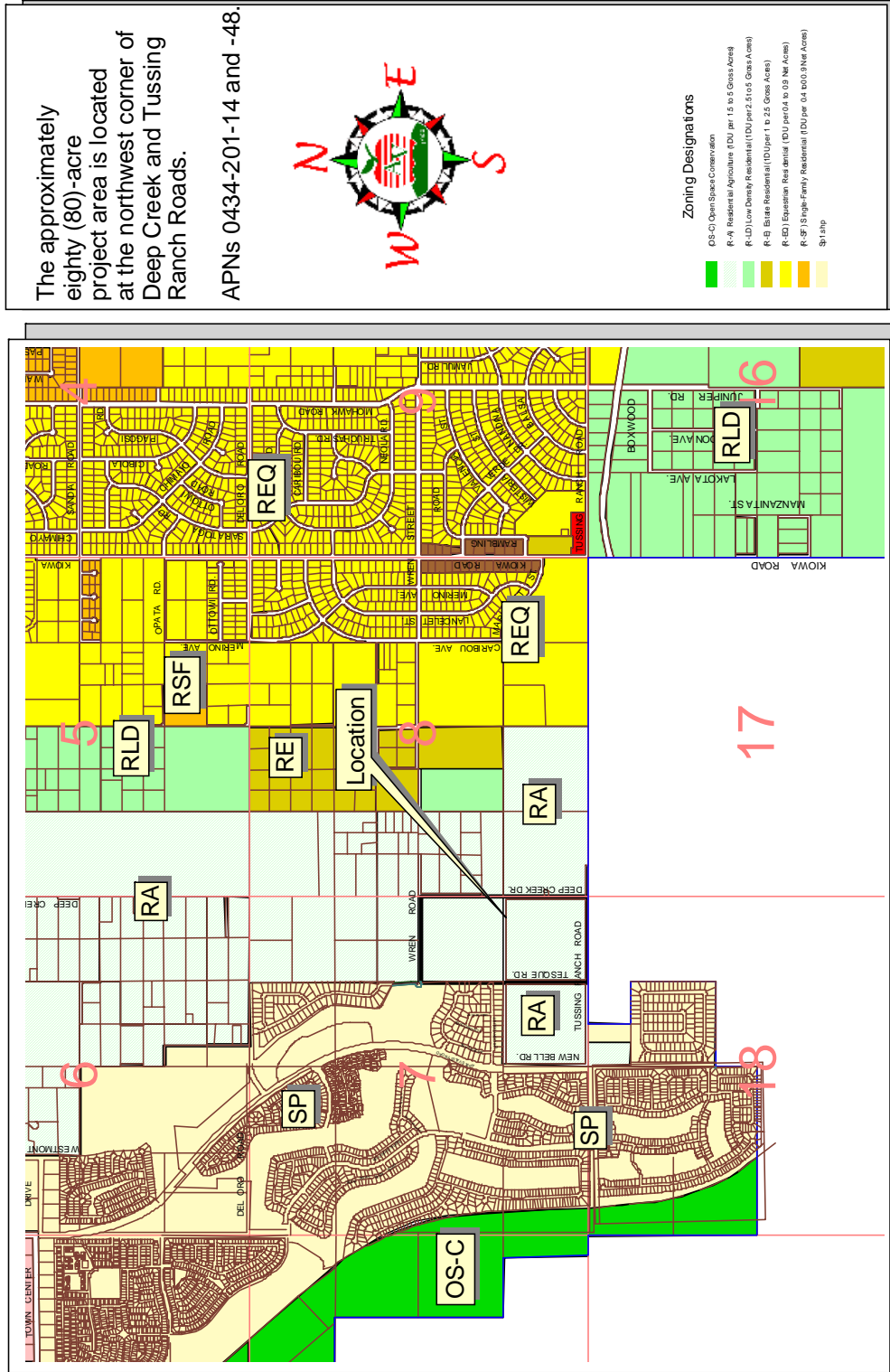
The approximately eighty (80)-acre project area is located at the northwest corner of Deep Creek and Tussing Ranch Roads.  
APNs 0434-201-14 and -48.

October 17, 2007

**Exhibit "A" – Existing Zoning**

**Existing Zoning Designation**

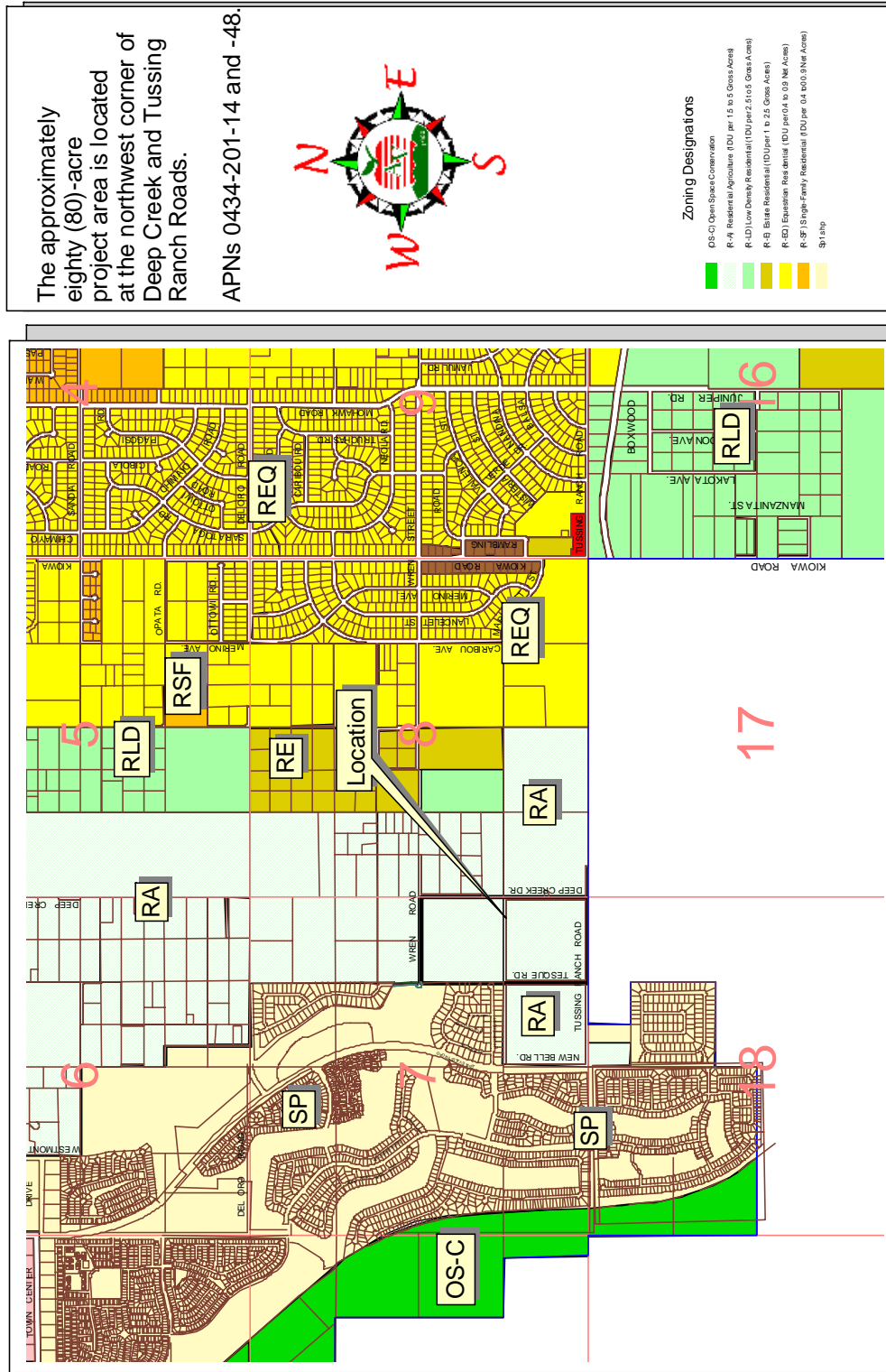
**Deep Creek Estates Zone Change No. 2004-002**



October 17, 2007

# Existing Zoning Designation

## Deep Creek Estates Zone Change No. 2004-002



October 17, 2007

*Specific Plan No. 2004-002, General Plan Amendment , Zone Change No. 2004-002 and Tentative Tract Map No. 16922*

*June 4, 2008 Planning Commission Meeting*

**Exhibit “A” –\_Description of Property**

Tract 16922, being a subdivision of the following:

Parcel “A”

The northeast ¼ of the southeast ¼ of Section 7, Township 4 North, Range 3 West, San Bernardino Base and Meridian, in the County of San Bernardino, State of California, according to the official plat of said land on file in the District Land Office.

Excepting therefrom the north 16 feet thereof.

Also excepting therefrom all of the minerals, including and without limitation, all the oil, gas and other hydrocarbon substances but excluding explicitly limestone and without any rights to use the surface or that portion of said land lying within 500 feet of the surface, and also excepting the right to drill into and through said land below 500 feet from the surface, as reserved in deed recorded March 2, 1987, Instrument No. 87-66863, Official Records.

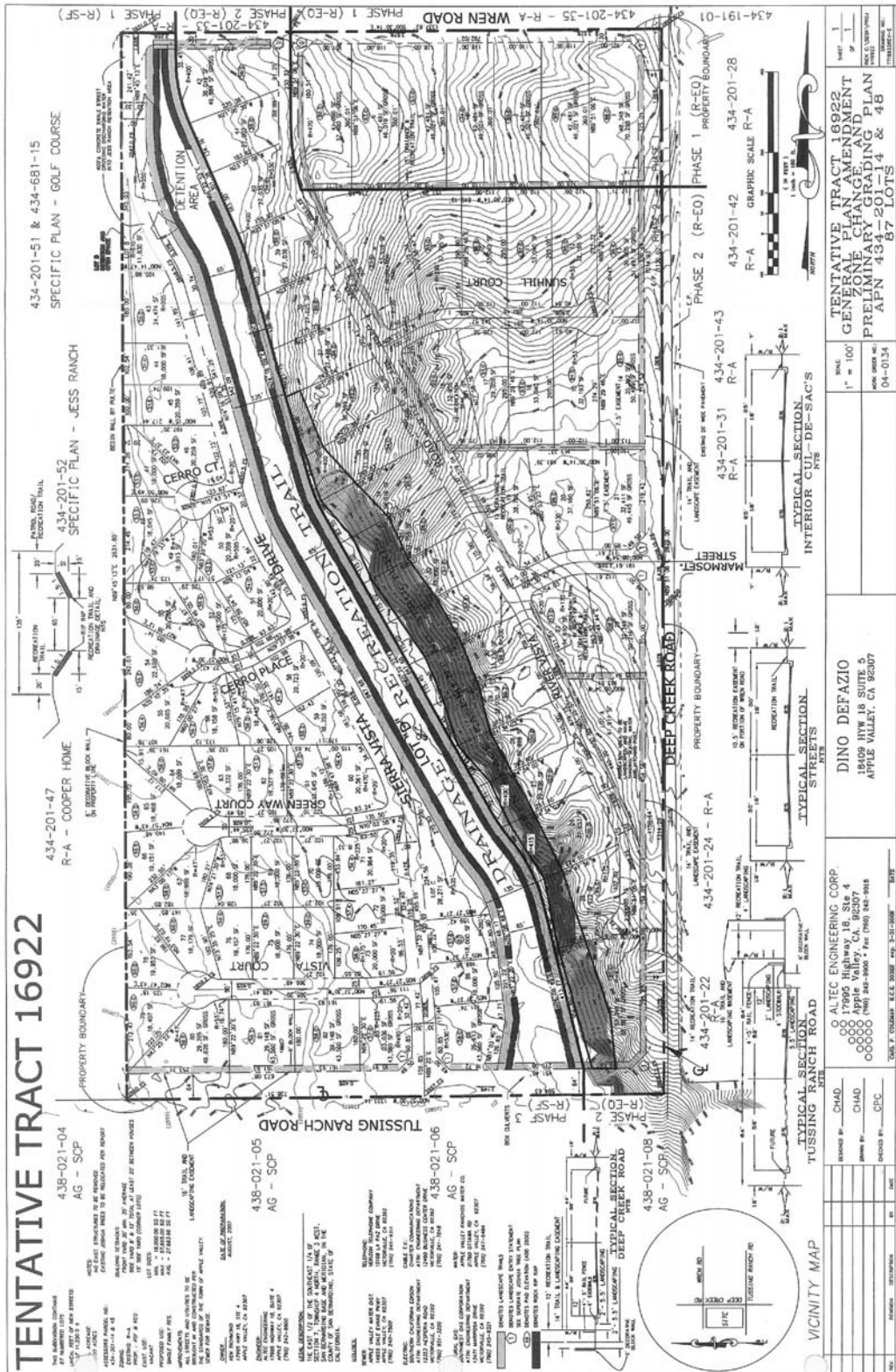
Parcel “B”

Parcel 2 of Parcel Map No. 12049, in the County of San Bernardino, State of California, as per plat recorded in Book 134 of Parcel Maps, Pages 53 and 54, records of said County.

Excepting therefrom all of the minerals, including and without limitation, all the oil, gas and other hydrocarbon substances but excluding explicitly limestone and without any rights to use the surface or that portion of said land lying within 500 feet of the surface, and also excepting the right to drill into and through said land Instrument No. 87-66866, Official Records.

APN: 0434-201-14-0-000 and 0434-201-48-0-000

Exhibit "B" - Tentative Tract Map No. 16922



<p>438-021-04 AG - SCP</p> <p>438-021-05 AG - SCP</p> <p>438-021-06 AG - SCP</p> <p>438-021-08 AG - SCP</p> <p>434-201-22 R-A</p> <p>434-201-24 R-A</p> <p>434-201-31 R-A</p> <p>434-201-42 R-A</p> <p>434-201-43 R-A</p> <p>434-201-28 R-A</p> <p>434-201-35 R-A</p> <p>434-201-33 R-EQ</p> <p>434-201-31 R-EQ</p> <p>434-201-30 R-EQ</p> <p>434-201-29 R-EQ</p> <p>434-201-27 R-EQ</p> <p>434-201-26 R-EQ</p> <p>434-201-25 R-EQ</p> <p>434-201-24 R-EQ</p> <p>434-201-23 R-EQ</p> <p>434-201-22 R-EQ</p> <p>434-201-21 R-EQ</p> <p>434-201-20 R-EQ</p> <p>434-201-19 R-EQ</p> <p>434-201-18 R-EQ</p> <p>434-201-17 R-EQ</p> <p>434-201-16 R-EQ</p> <p>434-201-15 R-EQ</p> <p>434-201-14 R-EQ</p> <p>434-201-13 R-EQ</p> <p>434-201-12 R-EQ</p> <p>434-201-11 R-EQ</p> <p>434-201-10 R-EQ</p> <p>434-201-09 R-EQ</p> <p>434-201-08 R-EQ</p> <p>434-201-07 R-EQ</p> <p>434-201-06 R-EQ</p> <p>434-201-05 R-EQ</p> <p>434-201-04 R-EQ</p> <p>434-201-03 R-EQ</p> <p>434-201-02 R-EQ</p> <p>434-201-01 R-EQ</p>	<p>434-201-51 &amp; 434-681-15 SPECIFIC PLAN - GOLF COURSE</p> <p>434-201-52 SPECIFIC PLAN - JESS RANCH</p> <p>434-201-47 R-A - COOPER HOME</p>	<p>TENTATIVE TRACT 16922 GENERAL PLAN AMENDMENT ZONE CHANGE PRELIMINARY GRADING PLAN APN 434-201-14 &amp; 48 87 LOTS</p> <p>SCALE: 1" = 100' DATE: 04-01-08</p> <p>DINO DEFazio 18181 APPLE VALLEY, CA 92307 APPLE VALLEY, CA 92307</p> <p>ALTEC ENGINEERING CORP 18181 APPLE VALLEY, CA 92307 (951) 242-9000 • FAX (951) 242-9818</p> <p>DATE: 04-01-08</p> <p>REVISION: CHAD DATE: CHAD CHECKED BY: CPC</p>
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**Attachment 11 – Recommended Conditions of Approval  
TOWN OF APPLE VALLEY**

Conditions modified from the October 17, 2007 Planning Commission Meeting with ~~strikeout~~ for deletions and underline for added language.

**RECOMMENDED CONDITIONS OF APPROVAL  
Case No. Tentative Tract Map No. 16922**

Please note: *Many of the suggested Conditions of Approval presented herewith are provided for informational purposes and are otherwise required by the Municipal Code. Failure to provide a Condition of Approval herein that reflects a requirement of the Municipal Code does not relieve the applicant and/or property owner from full conformance and adherence to all requirements of the Municipal Code.*

**Planning Division Conditions of Approval**

- P1. This tentative subdivision shall comply with the provisions of the State Subdivision Map Act and the Town Development Code. This tentative approval shall expire three (3) years from the date of approval by the Planning Commission/Town Council. A time extension may be approved in accordance with the State Map Act and Town Ordinance, if an extension application is filed and the appropriate fees are paid thirty (30) days prior to the expiration date. The Tentative Tract Map becomes effective ten (10) days from the date of the decision unless an appeal is filed as stated in the Town's Development Code.
- P2. Prior to approval of the Final Map, the following agencies shall provide written verification to the Planning Division that all pertinent conditions of approval and applicable regulations have been met:
- Apple Valley Fire Protection District  
Apple Valley Ranchos Water Company  
Apple Valley Public Services Department  
Apple Valley Engineering Division  
Apple Valley Planning Division  
California Department of Fish & Game
- P3. Upon approval of the Tentative Tract Map No. 16922, the applicant shall be responsible for the payment of all CEQA-mandated environmental review and filing fees to the Department of Fish and Game and/or the San Bernardino County Clerk of the Board of Supervisors.
- P4. The applicant shall agree to defend at his sole expense (with attorneys approved by the Town), and indemnify the Town against any action brought against the Town, its agents, officers or employees resulting from or relating to this approval. The applicant shall reimburse the Town, its agents, officers or employees for any judgment, court costs and attorney's fees which the Town, its agents, officers or employees may be required to pay as a result of such action. The Town may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of these obligations under this condition.

- P5. Approval of the Tentative Tract Map No. 16922 by the Planning Commission is understood as acknowledgement of Conditions of Approval by the applicant, unless an appeal is filed in accordance with Section 9.12.250, Appeals, of the Town of Apple Valley Development Code.
- P6. Prior to recordation the applicant shall provide the Planning Division with a copy of the subdivision in an electronic format compatible with the Town's current technology.
- P7. All slopes over three (3) feet in height shall be landscaped and irrigated according to Town standards.
- P8. Any protected desert plants or Joshua Trees impacted by the development are subject to the regulations specified in Section 9.76.020 (Plant Protection and Management) of the Development Code. Prior to the issuance of a Grading Permit, a study by a qualified Native Plant Expert shall be prepared to determine if the identified trees will be saved, located or removed, in compliance with the Town's Native Plant Protection Ordinance.
- P9. Lot design, size and development phasing shall conform to development standards and Conditions of Approval contained within the Deep Creek Estates Specific Plan Development Standards and Tentative Tract No. 16922. The specific standards contained within the Deep Creek Estates supersede those contained within the Town Development Code. Topics not addressed by the Deep Creek Estates Specific Plan shall be governed by the Town Development Code.
- P10. A six (6)-foot six (6)-inch high sound barrier shall be provided on the lots adjacent to Tussing Ranch Road at the landscape setback line. The noise control barriers may be constructed using one of the following materials:
  - a. Decorative masonry block
  - b. Stucco on Wood Frame
  - c. 3/4 –inch plywood
  - d. 1/4-inch glass or 1/2 –inch LEXAN
  - e. Any combination of these materials or any material rated 3.5 pounds per square foot surface weight or greater.

Each completed noise control barrier must present a solid face from top-to-bottom. Cutouts and openings are not permitted except for drain holes.

- P11. The buildings shall be constructed at a minimum in accordance with Table 10 below. Any two story homes constructed along Tussing Ranch Road shall install windows with a Sound Transmission Class (STC) rating as high as STC 32.

TABLE 10:

<u>Panel</u>	<u>Construction</u>
Exterior Wall	7/8-inch stucco or siding, 2-inch by 4-inch studs, R-13 fiberglass insulation, drywall.
Windows	Dual pane
Door	Solid Core Wood with weather stripping
Roof	Shingle or tile over sheathing, R-19 fiberglass Insulation, drywall, vented
Floor	Carpeted except for kitchen and baths.

- P12. ~~A separate Development Permit, approved by the Planning Commission, is required prior to new single-family residential construction. The submittal shall include a Development Plan consisting of plot plans, a minimum of three (3) floor plans and six (6) distinct building elevations, demonstrating a variety of heights, setbacks, roof shapes and trim to create visually pleasing aesthetics within a cohesive design.~~ If the developer constructs custom homes that consist of clearly different elevations and floor plans, with no two (2) homes the same, a Development Permit shall not be required, but shall be consistent with the Deep Creek Estates Specific Plan Design Guidelines.
- P13. Subdivision walls shall be constructed of slump stone, split face or masonry material, along the perimeter of the property lines. However, within the hillside areas, wrought iron and/or tubular fencing may be constructed. Prior to recordation of the Final Map, the Developer/applicant shall submit detailed plans showing all proposed walls for this subdivision subject to approval by the Director of Economic and Community Development (or designee).
- P14. If the tract map is adjacent to existing development, a fence/wall plan shall be submitted with the grading and landscape/irrigation plans to identify how new fencing or walls will relate to any existing fences or walls located around the perimeter of the tract/parcel map. The developer shall be required to connect to the existing fencing/walls or collaborate with the adjacent property owners to provide new fencing/walls and remove the existing fence/wall, both options at the developer's expense. Double fencing shall be avoided and review and approval of the fencing/wall plan is required prior to issuance of grading permits.
- P15. The project shall conform to the R-SF, Residential Single-Family and R-EQ, Equestrian Residential, development standards for front, side and rear yard-building setbacks in conformance with the Deep Creek Estates Development Standards.
- P16. The project shall incorporate sidewalks, which shall be shown on Engineering Improvement Plans, subject to approval by the Director of Economic and Community Development (or designee).
- P17. Prior to grading of the site, updated Biological Studies (Desert Tortoise, Mohave Ground Squirrel, Burrowing Owl) shall be submitted to ensure that special status species have not move onto the site since the date of the initial biological survey conducted in ~~October 2004~~ August 23, 2007.
- P18. Prior to issuance of a grading permit, clearance from the California Department of Fish and Game must be obtained for any permits deemed necessary for the location or habitat of the Mojave Ground Squirrel.
- P19. During grading of any phase of the project, the site shall be monitored to ensure that the presence of any sensitive or special status animal species is not evident. A pre-construction survey shall be conducted prior to land clearing to ensure the special status species (Desert Tortoise, Mohave ground squirrel, burrowing owl, sharp-shinned hawk and loggerhead shrike) have not moved on to the site since the ~~October 2004~~ August 23, 2007 date of the Biological Survey. In the event evidence of special status species

are present, appropriate permits shall be obtained from the U.S. Fish and Wildlife Service and California Department of Fish and Game (CDFG).

P20. The project shall also conform to the Open Space Conservation (OS-C) and the Hillside Ordinance development standards as identified in the ~~BPESP~~ Deep Creek Estates Specific Plan and Town of Apple Valley Development Code.

P21. A copy of the final grading plan shall be submitted to the Planning Division for review and approval.

g. All on-site cut and fill slopes shall be limited to a maximum slope ratio of 2 to 1 and a maximum vertical height of thirty (30) feet. Setbacks from top and bottom of slopes shall be a minimum of one-half the slope height.

h. Slopes shall be contour graded to blend with existing natural contours.

i. Slopes shall be a part of the downhill lot when within or between individual lots.

P22. The Covenants, Conditions and Restrictions (CC&Rs) shall be reviewed and approved by the Planning Division prior to final approval of the Tract map. Prior to the sale of the first residential lot for private occupancy, a Homeowner's Association, or Mutual Benefit Corporation, shall be formed or incorporated to control and maintain the common privately owned properties/areas within said community. Said Homeowner's Association, or corporation, shall be reviewed by the Town prior to the sale of the first lot within the community and acceptable Covenants, Conditions & Restrictions (CC&Rs) shall be created to identify all of the duties and costs associated with both the short- and long-term maintenance and repair of the facilities and features of the common areas. The CC&Rs should specify that the Homeowner's Association shall be responsible for the enforcement of the CC&Rs. CC&Rs created for a gated community shall detail the short and long-term maintenance and operation of all streets, common areas and facilities within a development, including all interior and exterior landscaping (if not covered by a Landscape Maintenance District), walls, gates, stacking areas, cross-lot drainage structures and recreational facilities, etc. The CC&Rs shall be submitted to the Town of Apple Valley for review and approval prior to the approval of the final map. The Town of Apple Valley shall not be a party to any CC&Rs created for a gated community and shall not enforce any provisions of said CC&Rs.

P23. A clear and comprehensive disclosure document shall be provided to each prospective home/lot buyer ~~within a gated community~~ that presents the responsibilities, liabilities and costs of both the short- and long-term maintenance and liability of all ~~private streets and~~ all common areas as detailed within the CC&Rs, as well as the method(s) of the Homeowner's Association or corporation's enforcement of the CC&Rs.

Acknowledgement of receipt of this disclosure document, on forms provided by the Community Development Department of the Town of Apple Valley, and signed by the prospective buyer, shall be retained by the Homeowner's Association, or corporation, and a copy of said form shall be provided to the Town of Apple Valley prior to occupancy of any home built upon the lot purchased.

P24. Prior to recordation of Final Map, three (3) sets of detailed landscaping and irrigation plans for the parkway area and subdivision entrances, prepared by a qualified licensed

- landscape professional, shall be submitted to the Planning Division for review and approval. The landscape and irrigation plans shall be prepared in compliance with the applicable landscape section of the Town Development Code.
- P25. All site amenities, including landscaping and irrigation, as shown on plans approved by the Town Planning Division, shall be installed prior to Final Occupancy of the first residential unit of Phase Nos. 2 and 3. Landscaping shall utilize drought tolerant, desert appropriate landscaping wherever feasible.
- P26. The applicant/developer shall install the landscaping along the perimeter of the development and within the retention/detention basins. The applicant/developer shall form a Homeowner's Association (HOA) to maintain the Open Space areas of the development, subject to review by the Town Attorney.
- P27. The Town Engineer, or designee, shall determine and approve that trails within the drainage easement are properly sloped and accessible for trail development and use. All trails adjacent to the drainage easement, as currently proposed, shall be built with white rail fencing separating the trail from the drainage channel.
- P28. All major and secondary streets (Deep Creek Road and Tussing Ranch Road) shall be dedicated and developed with a twelve (12)-foot wide trail easement, in addition to the right-of-way, on the north and west side. These trails should provide a meandering trail path, reducing straight lines/corridors where possible.
- P29. All trails shall be offered for dedication and developed in conformance with the Town's Multi-Use and Equestrian Trails Standards and Figure C-6, as adopted at time of map recordation
- P30. The Final Map shall show and record a non-vehicular access agreement for all lots fronting Tussing Ranch and Deep Creek Roads.
- P31. All applicable conditions and mitigation measures of the Deep Creek Estates Specific Plan shall apply to this map.
- P32. Any improvements along River Vista Road shall be completed concurrently with and prior to the Certificate of Occupancy of the adjacent lot (Lot No. 26). Improvements may include additional split rail fencing for horse training and/or horse showing.
- P33. The Neighborhood Recreation Trail Easements shall be integrated within the development located primarily along the rear of interior lots as shown on the Tentative Tract Map No. 16922 and conform to the Multi-Use Recreational Trails standards.
- P34. The completion of the park (Lot "A") shall occur at the beginning of Phase No. 2 and shall have all amenities constructed, subject to review and approval of the Planning Division.
- P35. Approval of TTM No. 16922 would be pending approval of GPA/ZNC No. 2004-002.

**Parks and Recreation Department Condition of Approval**

PR1. Prior to issuance of building permits for new construction, the developer, or assignee, is subject to fees in compliance to the Park and Recreation Department Quimby Ordinance, subject to review by the Planning Division.

### **Building and Safety Division Conditions of Approval**

BC1. An engineered grading report, including soils engineering and engineering geology, shall be filed with, and approved by, the Building Official prior to recordation of final map.

BC2. Grading and drainage plans, including soils report, are to be submitted to, and approved by, the Building Official prior to permit issuance.

BC3. Submit plans for approval and obtain all permits for all structures and walls.

BC4. A pre-construction permit and inspection are required prior to any land disturbing activity to verify requirements for erosion control, flood hazard, native plant protection and desert tortoise habitat.

BC5. A Notice of Intent (NOI) and a Storm Water prevention Plan (SWPP) must be submitted to, and approved by, the Engineering and Building Departments prior to issuance of a grading permit and or any land disturbance.

BC6. All utilities shall be placed underground in compliance with Town Ordinance no. 89.

BC7. Erosion control plans are to be submitted to, and approved by, the Building Official prior to issuance of permits.

BC8. A pre-grading meeting is required prior to beginning any land disturbance. This meeting will include the Building Inspector, General contractor, Grading Contractor, soils technician and any other parties required to be present during grading process such as Biologist, Paleontologist.

BC9. A dust palliative or hydro seed will be required on those portions of the site graded but not constructed (phased construction).

BC10. Page No. 2 of the submitted building plans will contain the Final Conditions of Approval.

BC11. Construction must comply with 2001 California Building codes.

BC12. Best Managements Practices (BMPs) are required for the site during construction.

### **Engineering Division Conditions of Approval**

EC59. A final drainage plan with street layouts shall be submitted for review and approval by the Town Engineer showing provisions for receiving and conducting offsite and onsite tributary drainage flows around or through the site in a manner which will not adversely affect adjacent or downstream properties. This plan shall consider reducing the post-development site-developed flow to ninety (90) percent of the pre-development flow for a

100 year design storm. (Town Resolution 2000-50; Development Code 9.28.050.C, 9.28.100)

EC60. Street improvement plans shall be submitted to the Town Engineer for review and approval.

EC61. All interior streets shall be improved to Town standards with curb, gutter and street pavement. Minimum residential width of streets shall be thirty-six (36) feet curb to curb.

EC62. All streets abutting the development shall be improved a minimum half-width of twenty-eight (28) feet improvements standards with curb, gutter and sidewalk on the development side.

EC63. A forty (40)-ft wide (30 half-width plus 10') road dedication along Wren Road adjacent to the property shall be granted to the Town of Apple Valley prior to Final Map Approval.

EC64. A forty-four (44)-ft wide half-width road dedication along Deep Creek Road adjacent to the property shall be granted to the Town of Apple Valley prior to Final Map Approval.

EC65. A sixty-four (64)-ft wide half-width road dedication along Tussing Ranch Road adjacent to the property shall be granted to the Town of Apple Valley prior to Final Map Approval.

EC66. Additional right of way at the intersection of Deep Creek Road and Tussing Ranch Road per the Town's supplemental lanes standard shall be required prior to final map Approval.

EC67. Wren Road adjacent to the property shall be improved to the Town's half-width Local street standards.

EC68. Deep Creek adjacent to the property shall be improved to the Town's half-width Secondary street standards.

EC69. Tussing Ranch Road adjacent to the property shall be improved to the Town's half-width Major Divided street standards.

EC70. During the grading of the streets, soils testing of the street subgrades by a qualified soils engineering firm shall be performed to determine appropriate structural street section. Minimum asphalt concrete thickness for all streets shall be 0.33 ft.

EC71. All required improvements shall be bonded in accordance with Town Development Code unless constructed and approved prior to approval and recordation on the Final Map.

EC72. An encroachment permit shall be obtained from the Town prior to performing any work in any public right of way.

EC73. Final improvement plans and profiles shall indicate the location of any existing utility which would affect construction and shall provide for its relocation at no cost to the Town.

EC74. A final grading plan shall be approved by the Town Engineer prior to issuance of a grading permit. A grading permit shall not be issued until street improvement plans have

been submitted to the Town Engineer for review and substantial completion of the street plans has been attained as determined by the Town Engineer.

EC75. The developer shall form or annex into an assessment district to provide for the ongoing maintenance of the retention basin and accessory structures, street lights, and parkway landscaping, shall be formed by the developer prior to final map approval. The assessment district is required and will be implemented in the event the Home Owner's Association becomes dysfunctional.

EC76. All street names shall be approved by the Town and such approval shall be coordinated through the Town Engineer.

EC77. The developer shall present evidence to the Town Engineer that he has made a reasonable effort to obtain a non-interference letter from any utility company that may have rights of easement within the property boundaries.

EC78. Utility lines shall be placed underground in accordance with the requirements of the Town.

EC79. The developer shall make a good faith effort to acquire the required off-site property interests. If the developer fails to acquire those interests the developer shall, at least 120 days prior to submittal of the final map for approval, enter into an agreement to complete the improvements pursuant to Government Code Section 66462 at such time as the Town acquires the property interests required for the improvements. Such agreement shall provide for payment by the developer of all costs incurred by Town to acquire the off-site property interests required in connection with the subdivision. Security for a portion of these costs shall be in the form of a cash deposit in the amount given in an appraisal report obtained by the developer, at the developer's cost. The appraiser shall have been approved by the Town prior to commencement of the appraisal. Additional security may be required as recommended by the Town Engineer and Town Attorney.

EC80. Traffic impact fees adopted by the Town shall be paid by the developer.

EC81. Any developer fees adopted by the Town including but not limited to drainage fees shall be paid by the developer.

EC82. Any required street striping shall be thermoplastic as approved by the Town Engineer.

EC83. Unimproved Cross lot drainage shall not be allowed. The Home Owner's Association shall maintain all improved cross-lot drainage.

EC84. The developer shall obtain and submit to the Planning Division prior to occupancy, the following signed statement by the purchasers of the homes located within the Landscape and Lighting Assessment district (subject to final approval by the Town Attorney): "In purchasing the home, I am aware that the home is located in the boundaries of a Landscape and Lighting Assessment District for the maintenance of drainage, landscaping, fencing and other similar improvements and that an annual landscaping maintenance charge shall be levied in the event the Home Owner's Association becomes dysfunctional.



EC85. In the event that an applicant/developer chooses to seek Council approval of the Final Map prior to completion of the required improvements, an "Agreement for Construction of Improvements" shall be required. In accordance with the California Labor Code, any such Agreement will contain a statement advising the developer that certain types of improvements will constitute a public project as defined in California Labor Code, Sections 1720, and following, and shall be performed as a public work, including, without limitation, compliance with all prevailing wage requirements.

EC86. Easements, as required for roadway slopes, drainage facilities, utilities, access to adjacent properties, etc., shall be submitted and recorded as directed by the Town Engineer. No structures shall be placed on any part of the easements except those directly related to the purposes of said easements.

EC87. The detention basin shall be designed to include the Town's Standard Two-Stage drywells, subject to review and approval by the Town Engineer.

### **Public Works Division Conditions of Approval**

#### **Prior to Map Recordation:**

PW1. A sewer feasibility study is required to determine how public sewer collection can be provided by the Town of Apple Valley. Contact the Apple Valley Public Works Department (760-240-7000 ext. 7500) to determine procedure and costs associated with completing said study.

PW2. Sewage disposal shall be by connection to the Town of Apple Valley sewer system. Financial arrangements, plans and improvement agreements must be approved by the Town of Apple Valley Public Works Department.

PW3. Buy-in fees will be required prior to Recordation. Contact the Public Works Department for costs associated with said fees.

### **Apple Valley Fire Protection District Conditions of Approval**

FD11. The above referenced project is protected by the Apple Valley Fire Protection District. Prior to construction occurring on any parcel, the owner shall contact the Fire District for verification of current fire protection development requirements.

FD12. The development and each phase thereof, shall have two points of paved access for fire and other emergency equipment, and for routes of escape which will safely handle evacuations. Each of these points of access shall provide an independent route into the area in which the development is located. This shall be completed prior to any combustible construction Apple Valley Fire Protection District Ordinance 22, Section (I) Install per A.V.F.P.D. Standard ARI #8.

FD13. Fire lanes shall be provided with a minimum width of twenty-four (24) feet, maintained, and identified. Apple Valley Fire Protection District Ordinance 41 Install per A.V.F.P.D. Standard Series #202.

FD14. A turnaround shall be required at the end of each roadway 150 feet or more in length and shall be approved by the Fire District. Cul-de-sac length shall not exceed ~~600~~1,000 feet.

Turning radius on all roads within the facility shall not be less than twenty-two (22) feet inside and minimum of forty (40) feet outside turning radius with no parking on street, or forty-seven (47) feet with parking. Road grades shall not exceed twelve percent (12%) unless approved by the Chief. Uniform Fire Code, Section 902.2.2.3 Apple Valley Fire Protection District Ordinance 22, Section 1 (e). Install per A.V.F.P.D. Standard Series #202.

FD15. Plans for fire protection systems designed to meet the fire flow requirements specified in the Conditions of Approval for this project shall be submitted to and approved by the Apple Valley Fire Protection District and water purveyor prior to the installation of said systems. Apple Valley Fire Protection District, Ordinance 42.

A. Unless otherwise approved by the Fire Chief, on-site fire protection water systems shall be designed to be looped and fed from two (2) remote points.

B. System Standards:

\*Fire Flow 500 GPM @ 20 psi Residual Pressure  
Duration 1 Hour(s)  
Hydrant Spacing 660 Feet

\*If blank, flow to be determined by calculation when additional construction information is received. Install per A.V.F.P.D. Standard Series #101.

C. A total of nine (9) fire hydrant(s) will be required. It is the responsibility of the owner/developer to provide all new fire hydrants with reflective pavement markers set into pavement and curb identification per A.V.F.P.D. Standard Install per A.V.F.P.D. Standard Series #101.

FD6. An approved fire sprinkler system shall be installed throughout any building:

- 5,000 square feet or greater, including garage and enclosed areas under roof, or
- Other per California Building Code requirements. Apple Valley Fire Protection District, Ordinance 41.

FD7. Apple Valley Fire Protection District Final Subdivision/Tract/Development fees shall be paid to the Fire District prior to final map acceptance according to the current Apple Valley Fire Protection District Fee Ordinance.

FD8. The developer shall submit a map showing complete street names within the development, to be approved by the Fire District prior to final map.

~~FD9. Prior to subdivision final map approval, the developer/owner shall either form or annex to a Mello-Roos Community Facilities District for Apple Valley Fire Protection District in order to provide, operate, and maintain fire protection facilities and/or to provide fire protection services. All "up front" costs associated with the formation of such district, or annexation to such a district shall be borne by the developer/owner.~~

**End of Conditions**

**MINUTE EXCERPT  
PLANNING COMMISSION MEETING  
OCTOBER 17, 2007**

**RECESS**

Chairman Hernandez called for a recess at 6:45 p.m.

**RECONVENED**

Chairman Hernandez reconvened the meeting at 6:50 p.m.

Commissioner Kallen recused himself from this item due to a conflict of interest and left the dais at 6:51 p.m.

**2. General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922.**

**Applicant:** Mr. Carl Coleman of Altec Engineering, Corp.

**Location:** The approximately 80 acre project area is located at the northwest corner of Deep Creek and Tussing Ranch Roads; APNs 0434-201-14 and -48.

Chairman Hernandez opened the public hearing at 6:51 p.m.

Ms. Carol Miller, Senior Planner, presented the staff report as filed by the Planning Division. Ms. Miller commented on changes to the Conditions of Approval as well as the Findings as recommended by the Town Attorney. She stated staff's recommendation of approval would be based on the modifications to the Specific Plan as outlined in the staff report.

Commissioner Putko questioned the size of the two (2) parks.

Vice-Chairman Tinsley asked about water conservation for the retention basins.

Commissioner Allen asked about the use of reclaimed water.

Mr. Rodger Lopez, Public Works Supervisor, stated there is a master plan for a subregional treatment plant to be operated by the Victor Valley Wastewater Reclamation Authority within the southern boundaries of the Town. Once that is completed, reclaimed water would be available for the area for use in the medians and golf courses.

Chairman Hernandez requested to know if staff was satisfied with the amenities included in the Specific Plan.

Ms. Lamson stated that staff has provided a list of recommended changes to the Specific Plan, one of which, is an increase in the park sizes.

Chairman Hernandez asked about mass grading of the property.

Mr. Richard Pedersen, Deputy Town Engineer, responded there is a thirty (30)-foot drop north of Tussing Ranch Road and it would have to be realigned, dropping it to seventeen (17) feet. He stated a construction easement may need to be purchased from the property owner at the northeast corner.

Mr. Dino DeFazio, the applicant, stated the project has two (2) parks, one of which is an equestrian park. He stated they were also paying Quimby fees. Mr. DeFazio advised he was planning on selling the project as individual lots. He further stated there would be no mass grading except for the intersection of Tussing Ranch and Deep Creek Roads. He stated there were 2.4 acres of equestrian trails at the site and the project meets all the requirements of Measure N.

Mr. DeFazio stated he preferred a split-rail fence along Deep Creek Road instead of a block wall and no sidewalks along that road.

Commissioner Allen asked about the Joshua Trees in the area being moved.

Mr. DeFazio responded that, since he is selling the individual lots, the trees outside of the right-of-way would remain and the future owners of the lots would determine whether or not they wished to move them.

Mr. DeFazio further commented there were some landscaping Conditions of Approval he did not agree with, but would work with staff to alleviate those concerns.

Mr. Carl Coleman, the engineer for the applicant, commented on some concerns with staff's recommendations for the Specific Plan modifications. He stated they were willing to increase the size of the park land if the Commission so desired. He also expressed concerns with Conditions of Approval Nos. P23 and EC29.

Chief Art Bishop, of the Apple Valley Fire Protection District, commented on some changes to their Conditions of Approval.

Mr. Chris Moyer, of Apple Valley, stated he appreciated the rural setting of the project, as well as the equestrian feel and split-rail fencing proposed by the applicant; however, he did not feel the densities were compatible with the area. He stated he was against the project.

Ms. Lovella Sullivan, Apple Valley, read a statement from the Equestrian Advisory Committee. She stated they were in favor of the project and appreciated the rural atmosphere, but were also against the proposed block wall.

Mr. David Holtz, of Apple Valley, also felt that one-acre lots were incompatible with the surrounding area and spoke against the project.

Ms. Joan Paustell, of Apple Valley, expressed her opposition to the project. She felt the General Plan update should be completed before rezoning is done in the area.

Mr. Dave Dundon, Apple Valley, stated he was in favor of the project.

Mr. Tom Hrubik, Apple Valley, commended the applicants for the project design and lot sizes and stated he was in support of the project.

Ms. Gayle Flinchum, of Apple Valley, stated she was opposed to the project, but appreciated the rural design. She felt the lot sizes should be 2-½ acres minimum.

Mr. Ian Bryant, the President of the Deep Creek Agricultural Association, stated all of the property owners were not notified of the project. He stated the project was incompatible with the surrounding area and would set a precedent for future development along Deep Creek Road. Mr. Bryant further commented that the General Plan update should be completed before any projects are approved for this area.

Since there was no one else in the audience requesting to speak to this item, Chairman Hernandez closed the public hearing at 8:13 p.m.

Chairman Hernandez requested to know why the wall was required on Deep Creek Road.

Ms. Lamson stated it is a standard requirement on all secondary and arterial streets, unless there is a significant setback of the homes along those types of streets.

Mr. DeFazio responded that their sound study for the project indicated the need for a block wall along Tussing Ranch Road; however, no block wall for noise mitigation was needed on Deep Creek Road.

Ms. Lamson stated the project must be consistent with other development in the Town, which identifies through several noise studies that a buffer is required for secondary roads.

Chairman Hernandez questioned staff regarding accepting in-lieu fees instead of requiring the sidewalks.

Mr. Richard Pedersen, Deputy Town Engineer, stated staff would consistently require sidewalks along Deep Creek Road when it develops; however, they could be done at a future date.

Ms. Lamson stated staff felt the bluff should be preserved for open space with natural landscaping and recommended development be prohibited in this area.

Chairman Hernandez agreed that the General Plan should be updated before this area is developed.

Vice-Chairman Tinsley felt the project had issues that needed to be resolved between the applicant and staff.

Ms. Lamson stated it was the applicant's desire to bring the project before the Commission at this time, knowing that staff had many changes to the Specific Plan as presented.

Commissioner Putko agreed there were many issues that needed to be resolved.

Ms. Lamson explained the process should the Commission choose to deny the project.

Mr. Coleman stated he and Mr. DeFazio would prefer a continuance to the first meeting in December so they could work with staff to resolve some of the issues.

Mr. Dafazio stated that they could work with staff on all the issues discussed except for the lot sizes. He indicated that he has no intentions of increasing the lot sizes and will take this issue to the Council.

Chairman Hernandez indicated that if the applicant was not willing to increase lot sizes, that a continuance to December would just be postponing the issue at hand. He stated his opposition to a continuance.

**MOTION:**

Motion by Commissioner Allen, seconded by Vice-Chairman Tinsley, that the Planning Commission move to continue the public hearing for this item to the regular meeting of December 5, 2007.

**ROLL CALL VOTE:**

Ayes: Commissioner Allen  
Commissioner Putko  
Vice-Chairman Tinsley  
Noes: Chairman Hernandez  
Abstain: None  
Absent: Commissioner Kallen  
The motion carried by a 4-0-0-1 vote

**MINUTE EXCERPT  
PLANNING COMMISSION MEETING  
January 16, 2008**

**PUBLIC HEARING ITEMS**

**Commissioner Kallen left the dais at 6:05 p.m. due to a potential conflict of interest concerning Item No. 2.**

**2. General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922.**

**Applicant:** Carl Coleman of Altec Engineering, Corp.

**Location:** The approximately eighty (80)-acre project area is located at the northwest corner of Deep Creek and Tussing Ranch Roads; APNs 0434-201-14 and -48.

Chairman Hernandez re-opened the open, continued public hearing at 6:05 p.m.

Ms. Becky Reynolds, Principal Planner, presented the staff report as filed by the Planning Division. Ms. Reynolds stated that, per the Town Attorney, Item Nos 5 through 8 should be deleted in the staff Recommendation section of the staff report. She also commented on some minor changes to the Planning Commission Resolution No. 2007-028. She stated staff was recommending denial of the project.

Mr. Dino DeFazio, the applicant, stated his engineer had not yet arrived and requested the Commission hear the Item at a later time in the hearing.

It was the consensus of the Commission to hear this Item after Agenda Item No. 4.

**Commissioner Kallen returned to the dais at 6:10 p.m.**

Chairman Hernandez returned to Item No. 2 on the Agenda at this time.

**Commissioner Kallen left the dais at 7:07 p.m. due to a potential conflict of interest.**

Chairman Hernandez reopened the public hearing at 7:07 p.m.

Mr. Dino DeFazio, the applicant, presented an update of his project and stated he has resolved eight (8) of the issues of concern. Mr. DeFazio commented on some discrepancies with staff and the Commission concerning the project.

Mr. DeFazio stated he had designed two (2) parks for the project and has 4-½ acres of Equestrian Trails, including interior trails. He also stated he agreed to eighty-three (83) lots instead of eight-seven (87) lots. He is also paying park fees as well as providing parks at the site. Mr. DeFazio stated he would be willing to reduce the lots even more and commented on the Specific Plan guidelines being too vague.

Chairman Hernandez questioned whether there were any changes on the plans.

Mr. Carl Coleman, the engineer for the applicant, commented on a change in the Open Space. He also commented on leaving the wall requirement on Deep Creek Road as well as the sidewalks.

Chairman Hernandez requested to know if there were any changes to the lot sizes.

Mr. Coleman responded there were none; however, they are proposing one (1)-acre lots along the perimeters and half (1/2)-acre lots abutting Jess Ranch.

Ms. Reynolds clarified the history concerning the applicants' project.

Mr. Coleman quoted General Plan policies, stating he did not agree with the staff Finding that the project was not consistent with the area. He stated infrastructure improvements would be made to the area that would benefit the health and welfare of the community.

Commissioner Putko commented on the Cooper Home and Jess Ranch not being in the Deep Creek Corridor.

Mr. Coleman responded they are adjacent to the property.

Mr. DeFazio explained the proximity of the project to Jess Ranch and the Cooper Home. He further commented the project is an equestrian subdivision and will be an asset to the community. He stated the project would be a lot-sale program and all the homes would be custom built.

Mr. Ian Bryant, Apple Valley, President of the Deep Creek Agricultural Association, stated the lot sizes were not consistent with the area and requested denial of the project.

Mr. Ken Henderson, Director of Economic and Community Development, stated, in staff's opinion, the Specific Plan application did not conform to the Town Development Code chapter relating to Specific Plans. He stated the amenities offered were insufficient. Mr. Henderson stated the applicant was unwilling to make any changes and requested the project go forward to the Town Council.

Since there was no one in the audience requesting to speak to this item, Chairman Hernandez closed the public hearing at 7:39 p.m.

Chairman Hernandez and Commissioner Putko stated they agreed with the staff recommendation for denial.

Vice-Chairman Tinsley commented the applicant had alleviated some of his concerns. He felt the project would benefit the area by having a park and by alleviating traffic issues on Deep Creek Road.

Commissioner Allen stated there were a number of changes to the project and the transition between half (1/2)-acre lots and the larger lots is reasonable. Commissioner Allen commended the applicant on his changes and was in favor of the applicants marketing the property as lot sales.



Ms. Lamson, Assistant Director of Community Development, commented, if the Commission wished to approve the Item, then they would have to continue the Item to allow staff to time to bring back a Resolution in favor of the project.

**MOTION:**

Motion by Vice-Chairman Tinsley, seconded by Commissioner Allen, to continue this item to the February 6, 2008 Planning Commission meeting.

**Discussion on Motion:**

Mr. Henderson stated that, in the event of a tie vote, it would mean staff's recommendation for denial would be approved. He suggested clarification be made, as to whether or not there were three Commissioners in support of the project, not in support, or whether a straw vote would indicate a 2-2 tie vote that would uphold the staff recommendation for denial.

**ROLL CALL VOTE:**

Ayes: Commissioner Allen  
Vice-Chairman Tinsley  
Noes: Commissioner Putko  
Chairman Hernandez  
Abstain: None  
Absent: Commissioner Kallen

**The motion failed by 2-2-0-1 and the project was denied**

**Commissioner Kallen returned to the dais at 7:55 p.m.**



Agenda Item No. 6

## **TOWN OF APPLE VALLEY PLANNING COMMISSION**

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### **STAFF REPORT**

- AGENDA DATE:** June 4, 2008 (continued from May 21, 2008 meeting)
- CASE NUMBER:** General Plan Amendment/Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922
- APPLICANT:** Carl Coleman of Altec Engineering, Corp
- PROPOSAL:** This is a request for approval of a General Plan Amendment to change the current Land Use designation of Residential Low Density (R-LD, 1 dwelling unit per 2.5 to 5.0 gross acres) to Specific Plan (S-P) and a Zone Change from the current Residential Agriculture (R-A, 1 dwelling unit per 2.5 to 5.0 gross acres) Zoning designation to Specific Plan (S-P) Zoning designation. Assuming approval of GPA/ZNC No. 2004-002, the applicant has requested to subdivide the total eighty (80) gross acre site, under Tentative Tract Map No. 16922, into eighty-seven (87) single family lots. All lots are single-family residential and will range from 18,000 to 48,348 square feet in size and includes a 1.98 acre park site.
- LOCATION:** The approximately eighty (80)-acre project area is located at the northwest corner of Deep Creek and Tussing Ranch Roads; APNs 0434-201-14 and -48.
- ENVIRONMENTAL DETERMINATION:** Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA) a Mitigated Negative Declaration has been prepared. However, due to the Planning Commission direction to draft findings for denial, this is considered Exempt due to Section 15270 (a) – projects in which the local authority denies.
- CASE PLANNER:** Ms. Becky Reynolds, Principal Planner

**RECOMMENDATION:** Pursuant to Planning Commission direction, Negative Findings to support the two (2) Commissioner's stated intent to deny this project have been prepared.

### BACKGROUND

The Planning Commission conducted three (3) public hearings (October 17, 2007, January 16<sup>th</sup> and May 21, 2008) to review and take testimony on General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract map 16922.

At the January 16<sup>th</sup> meeting, following the public hearing and discussion, the Planning Commission considered a motion to approve the project. The motion failed on a 2 to 2 vote, with one (1) Commission member recused from the dais as a result of a stated conflict of interest. Pursuant to State law, a majority vote of the Commission (3 votes) is required for approval of a General Plan Amendment (GPA), Zone Change (ZC) or Specific Plan (SP) and the 2-2 vote is, therefore, technically determined as a denial of the project. The project was forwarded to the Town Council with a recommendation of denial.

The project was reviewed by the Town Council at its meeting held on April 22, 2008. Following review of the information within the staff report, public input and discussion among the Council, the Council took action remanding the Specific Plan back to the Planning Commission for its review. The Council's action included required modifications to the Specific Plan. The applicant submitted the modified Specific Plan to the Planning Division on April 29, 2008. The Council's direction to the Planning Commission was to review the eleven (11) Specific Plan modifications to verify that they had been completed and, if completed, to make a favorable decision on GPA/ZC/SP 2004-002 and Tentative Tract Map No. 16922 with the recommended Conditions of Approval.

At the May 21, 2008 Planning Commission meeting, Commissioner Putko stated that he was not in favor of the project due to the inadequate park size and lack of amenities, minimal lot sizes and that the project would not maintain zoning integrity for the general area. Chairman Hernandez stated that the project should have one (1) acre minimum lot sizes for all lots within the subdivision; the park size and the amenities, as noted in the required SP modification list, were insufficient for the ability of the site to be developed with density greater than the underlying zoning under a Specific Plan and, in this case, build at a density of (two) 2 units to the acre, rather than the underlying zoning of one (1) unit per 2.5-acres. The Planning Commission made a motion to continue the project to the June 4, 2008 Planning Commission meeting to allow staff to prepare findings for denial and the motion was approved with a four (4), zero (0), (one [1] recused) vote.

The project is a continued public hearing item to the June 4<sup>th</sup> meeting and, therefore, will be subject to a Planning Commission vote. Staff has provided a Resolution for denial as a result of the Planning Commission's 2-2 vote on this matter. The Planning Commission Resolution will be forwarded to the Council and it will report that Commission's decision at the Town Council public hearing.

Based upon direction to staff at the May 21, 2008, hearing, findings for denial are provided below, reflecting comments made by Chairman Hernandez and Commissioner Putko.

### **FINDINGS FOR DENIAL**

In considering any General Plan Amendment or Zone Change, the Council and Commission are required by the Municipal Code to make specific Findings. The following are the Findings for a General Plan Amendment required under Section 9.02.050 H 3 of the Development Code, with a comment to address each:

#### General Plan Amendment

7. The proposed General Plan amendment is consistent with the goals, policies and standards of all elements of the General Plan and will further those goals, policies and standards;

Comment: The proposed General Plan Amendment is inconsistent with, and does not further the Goals and Policies of the General Plan Land Use Element and will not further their implementation. The subject property is suitable for development, although the proposed land uses are not complementary to the surrounding low density residential neighborhoods as proposed. The proposed Specific Plan and Tentative Tract Map are providing less than one (1) acre lot sizes, inadequate park size and lacks functional park amenities necessary to assure the project meets the development standards envisioned for this project.

8. The General Plan, as amended, will comprise an integrated, internally consistent and compatible statement of policies for the Town;

Comment: The request is inconsistent with the General Plan goals, policies and standards and the General Plan Land Use Policies Map. As proposed, the project is inconsistent with the established development pattern and development standards in the area. The proposed project is not consistent with, and complementary to, an integrated, internally consistent and compatible statement of policies for the Town's General Plan.

9. The General Plan amendment furthers the public interest and promotes the general welfare of the Town by providing for a logical pattern of land uses and clarifying various land use policies for the Town.

Comment: The proposed change to the Land Use Element of the adopted Town of Apple Valley General Plan does not further the public interest and the general welfare of the Town. As proposed, the project is inconsistent with the established development pattern and development standards in the area unless all lot sizes are increased to one (1) acre minimum. The proposed project is not consistent with, and complementary to, an integrated, internally consistent and compatible statement of policies for the Town's General Plan.

Development Code section 9.06.060 requires the following findings be made in order to approve Zone Change Amendments to the Development Code:

3. The proposed amendment is consistent with the General Plan.

Comment: The proposed project is inconsistent with the goals, policies and standards of all of the General Plan Elements. The project is not compatible with the character of the surrounding rural residential neighborhood. The required 86,000 square foot park will not provide adequate amenities to be beneficial to the residential neighborhood.

2. The proposed amendment will not be detrimental to the public health, safety or welfare of the Town or its residents.

Comment: The request will adversely affect the health, peace or comfort of persons residing in the area and will be detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, and may constitute a menace to the general welfare. The required neighborhood park is not adequate in size and the park amenities will not be functional or beneficial to the residential neighborhood. The applicant has not demonstrated that the general welfare and convenience would be furthered by the subject request. Approving the request as proposed will set an undesirable precedent that will encourage similar incompatible development adjacent to these rural residential neighborhoods.

Development Code section 9.03.040 requires that the following findings be made in order to approve a Specific Plan:

- M. The proposed specific plan meets all of the following content criteria:

1. Specifies through text and/or diagrams, the distribution, location and extent of the uses of land, including open space, within the area covered by the plan.

Comment: The proposed Specific Plan specifies with text and diagrams the distribution, location and amount of land uses; however, the specific plan does not include minimum one (1)-acre lot sizes, adequate open space, park sites and functional amenities.

2. Specifies through text and/or diagrams, the proposed distribution, location and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid-waste disposal, energy and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan.

Comment: The proposed specific plan specifies through text and diagrams the proposed distribution, location and extent of major onsite public facilities and services, including transportation, sewage, water, drainage, energy and other essential services needed to support the plan's land uses. Proposed roads described in the text are illustrated with a plan view map and road cross sections.

3. Specifies through text and/or diagrams, the standards and criteria by which development will proceed, and standards for the conservation, development and utilization of natural resources, where applicable.

Comment: The proposal, through text, diagrams and photographs, specifies the standards and criteria by which development would proceed, and natural resources will be preserved, managed and utilized, in the designated Open Space (OS) area with the proposed recreation/equestrian trail and drainage easement.

4. Specifies a program of implementation measures, including regulations, programs, public works projects, and financing measures necessary to carry out Findings A.1, A.2 and A.3 above.

Comment: The specific plan includes implementation procedures, a development phasing schedule, possible financial mechanisms and Homeowners' Association (HOA) maintenance responsibilities for street parkways, multi-use trails, a park, landscaped areas and drainage systems. The phasing schedule calls for the project to be constructed in four (4) phases, beginning from the north. Tentative Tract Map No. 16922 is filed concurrently with the various phases.

5. Includes a statement of the relationship of the specific plan to the General Plan, Development Code and other applicable plan or ordinance.

Comment: The Specific Plan contains a chapter on the purpose and authority of the Specific Plan under California Government Code, Sections 65450 through 65454, including content requirements. This chapter also includes the Specific Plan's relationship to the Town's General Plan, Vision 2010, and the Development Code (Zoning Ordinance and Subdivision Ordinance).

6. Addresses any other subjects that are necessary for implementation of the General Plan.

Comment: The project would be sequential development adjacent to the approved Jess Ranch Specific Plan to the northwest.

- N. The location and design of the proposed development will be consistent with the goals and policies of the General Plan and with any other applicable plan or policies adopted by the Town and with any other applicable provisions of the Development Code.

Comment: The Specific Plan's location and design is inconsistent with the General Plan goals and policies as well as applicable Development Code provisions.

- O. The proposed location will allow the development to be well integrated with or adequately buffered from its surroundings, whichever may be appropriate.

Comment: The Specific Plan preserves and provides access to the site, but does not provide appropriate design standards and minimum one (1)-acre lots for the subdivision in order to buffer the proposed development from the surrounding existing and anticipated rural residential neighborhoods.

- P. All vehicular traffic generated by the development, either in phased increments or at full build-out, will be accommodated safely and without causing significantly increased congestion upon adjoining streets.

Comment: Based on a Traffic Study, the Specific Plan specifies appropriate traffic mitigation measures, including the extension of roads to support the project's development phases and maintain the LOS C at all Town of Apple Valley intersections.

- Q. The final specific plan will identify a methodology to allow land uses to be adequately serviced by existing or proposed public facilities and services. In appropriate circumstances, and as provided elsewhere by this Development Code, the Town may require that suitable areas be reserved for uses such as schools, parks and pedestrian ways; public open spaces may be dedicated or reserved by private covenant for the common use of residents, establishments or operations in the development.

Comment: The Specific Plan includes conceptual plans for circulation, trails, open space and landscaping, water, wastewater, and drainage as well as an infrastructure phasing plan. A Homeowner's Association (HOA) will be responsible for the landscaping and related maintenance in the rights-of-way and other common areas, the trails, trail fencing, walkways and drainage facilities.

- R. In accordance with the requirements of the California Environmental Quality Act (CEQA), environmental impacts have been reduced to a level of insignificance, or in the case where such impacts remain; a statement of overriding considerations must be adopted to justify the merits of project implementation after certification of the Environmental Impact Report.

Comment: Pursuant to the State of Guidelines to Implement the California Environmental Quality Act (CEQA), a Mitigated Negative Declaration has been prepared. However, due to the Planning Commission direction to draft findings for denial, this is considered Exempt, Section 15270 (a) – projects in which the local authority denies.

- G. The proposed specific plan should contribute to a balance of land uses so local residents may work and shop in the community in which they live.

Comment: The project is a proposed residential Specific Plan and will not provide the residents of Deep Creek Estates adequate recreational amenities within the project boundaries.

- I. The proposed specific plan will not be detrimental to the public health, safety or welfare of the Town.

Comment: The specific plan is inconsistent with the General Plan and Development Code and will be detrimental to the public health, safety or welfare of the Town. The applicant has not demonstrated that the general welfare and convenience would be furthered by the subject request. The project does not provide adequate park areas; functional park amenities and the residential lot sizes are not compatible with the surrounding rural area.

**Mandatory Denial of Tentative Maps (66474)**

As required under Section 9.71.040 (A.6) of the Development Code, the Tentative Map shall be denied by the Planning Commission if **any** of the following findings are made:

11. That the proposed subdivision is not consistent with the General Plan or any applicable Specific Plan.

Comment: This is a proposal to subdivide the approximately eighty (80)-acre property into eighty-seven (87) single-family lots. The subject property is suitable for development, although the proposed land uses are not complementary to the surrounding low density residential neighborhoods as proposed. The proposed Tentative Tract Map lacks details necessary to assure the project meets the development standards envisioned for this project. Although the subdivision is designed with (1) acre buffer lots, this is in conflict with direction by the Planning Commission to provide all lots within the subdivision to one (1)-acre minimum.

12. That the design or improvement of the proposed subdivision is not consistent with the General Plan or any applicable Specific Plan.

Comment: This is a proposal to subdivide the approximately eighty (80)-acre property into eighty-seven (87) single-family lots. Several of the lots are less than one (1)-acre lot area, which is in conflict with direction by the Planning Commission to increase lots sizes to one (1)-acre minimum for all lots within the subdivision and, therefore, will be inconsistent with the goals and policies of the General Plan.

13. That the site is not physically suitable for the proposed type of development.

Comment: This is a proposal to subdivide the approximately eighty (80)-acre property into eighty-seven (87) single-family lots. The project is split topographically by a bluff that runs generally from southeast to northwest with areas of fifteen percent (15%) or greater slopes. The subject property is suitable for development, although the proposed land uses are not complementary to the surrounding low density residential neighborhoods as proposed. Several of the lots are less than one (1) acre lot size which is in conflict with direction by the Planning Commission to increase lots sizes to one (1)-acre minimum for all lots within the subdivision, therefore; will not be compatible with the surrounding rural neighborhood area and will be inconsistent with the goals and policies of the General Plan.



14. That the site is not physically suitable for the proposed density of development.

Comment: This is a proposal to subdivide the approximately eighty (80)-acre property into eighty-seven (87) single-family lots. The subject property is suitable for development, although the proposed land uses are not complementary to the surrounding low density residential neighborhoods as proposed. Several of the lots are less than one (1) acre lot area which is in conflict with direction by the Planning Commission to increase lot sizes to one (1)-acre minimum for all lots within the subdivision and to increase the area of the park site; therefore, the project will not provide adequate buffering and will not be compatible with the surrounding rural neighborhood area.

15. That the design of the proposed subdivision, or the proposed improvements, is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

Comment: Based upon the information contained within the Initial Study prepared in conformance with the State Guidelines to Implement the California Environmental Quality Act (CEQA), a Mitigated Negative Declaration was prepared. However, due to the Planning Commission direction to draft Findings for denial, this is considered Exempt due to Section 15270 (a) – projects in which the local authority denies.

16. That the design of the proposed subdivision or the type of proposed improvements is likely to cause serious public health or safety problems.

Comment: The proposed Tentative Tract Map No. 16922 is not consistent with Town of Apple Valley General Plan and Development Code of the Town of Apple Valley and will not promote the health, safety and general welfare of the citizens of the Town of Apple Valley. The required neighborhood park is not adequate in size and the lack of park amenities will not be beneficial to the residential neighborhood. The applicant has not demonstrated that the general welfare and convenience would be furthered by the subject request. The project is adjacent to Tussing Ranch, Deep Creek, and Wren Roads and with the proposed lot sizes, will not provide adequate buffering to be compatible with the surrounding rural area.

17. That the design of the proposed subdivision or the type of proposed improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision or with public access to public resources as defined and regulated by Section 66478.1 et seq., of the Subdivision Map Act. In this connection, the Planning Commission may approve a Tentative Map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to the ones previously acquired by the public.

Comment: The design of the proposed subdivision and the type of proposed improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision or with public access to public resources as defined and regulated by Section 66478.1 et seq., of the Subdivision Map Act.

18. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction; no authority is hereby granted to the Planning Commission to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

Comment: The proposal consists of a land subdivision located on vacant, residentially designated land for the purpose of future residential development. This subdivision will not affect easements of record or to easements established by judgment of a court of competent jurisdiction; therefore, no authority is hereby granted to the Planning Commission to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

19. That the design of the proposed subdivision does not provide to the extent feasible for future passive or natural heating or cooling opportunities pursuant to Section 66473.1 of the Subdivision Map Act.

Comment: The lots created under this subdivision are appropriate in size to provide natural heating and cooling opportunities for development of the site. Any future development is subject to the implementation of natural heating and cooling requirements pursuant to Title 24 energy requirements.

20. That the Planning Commission has not considered the effect of its action on the housing needs of the region or has not balanced those needs against the public service needs of its residents and available fiscal and environmental resources with favorable results pursuant to Section 66412.3 of the Subdivision Map Act.

Comment: The proposal consists of a proposed land subdivision located on vacant, residentially designated land for the purpose of future residential development. The denial of the proposed Tentative Tract Map will not affect the Planning Commission's action on the housing needs of the region and those needs against the public service needs of its residents and available fiscal and environmental resources with favorable results pursuant to Section 66412.3 of the Subdivision Map Act.

## **RECOMMENDATION**

In recognition of the Town Council's policy direction to the Planning Commission on the eleven (11) modifications to the Deep Creek Estates Specific Plan and based upon the information contained within this report, and any input received from the public at the hearing, it is recommended that the Planning Commission adopt the attached Planning Commission Resolution No. 2007-028, which recommends that the Town Council deny the General Plan Land Use Element Amendment from Residential Low Density (R-LD) to Specific Plan and Zone

*June 4, 2008 Planning Commission Meeting*

Change from Residential Agriculture (R-A) to Specific Plan for the subject site and deny Tentative Tract Map No. 16922.

16. Determine that, based on the Negative Comments and Findings for Denial, the proposed General Plan Amendment and Zone Change are inconsistent with the Goals and Policies of the General Plan and has the potential to negatively impact the adjacent low density residential neighborhoods.
17. Find, that pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15270 (a), that a project which is denied is Exempt from CEQA.
18. Find that certain facts/comments presented in the staff report do not support the required Findings for approval and adopt those Comments/Findings for Denial.
19. Adopt Planning Commission Resolution No. 2007-028 forwarding to the Town Council a recommendation for denial of General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922. This includes a recommendation to deny the amendment to the General Plan Land Use designation and rezoning from Residential Low Density (R-LD) to Specific Plan (S-P) land use designation and from Residential-Agriculture (R-A) to Specific Plan (SP) zoning district in accordance with Exhibits A & B of Planning Commission Resolution No. 2007-028 and recommend denial of the "Deep Creek Estates" Specific Plan.

**Prepared By:**

**Reviewed By:**

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Becky Reynolds  
Principal Planner

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Lori Lamson  
Assistant Director of Community Development

**ATTACHMENTS**

1. Planning Commission Resolution No. 2007-028 (denial)  
Exhibit A - Proposed and Existing General Plan maps with property description  
Exhibit B - TTM No. 16922
2. Tentative Tract Map No. 16922 (reduced copy)
3. Minute Excerpt from April 22, 2008 Town Council Meeting
4. Minute Excerpt from January 16, 2008 Planning Commission Meeting
5. Minute Excerpt from October 17, 2007 Planning Commission Meeting

Denial Resolution

**PLANNING COMMISSION RESOLUTION NO. 2007- 028**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMENDING THAT THE TOWN COUNCIL DENY THE SPECIFIC PLAN NO. 2004-002. THE SPECIFIC PLAN, “DEEP CREEK ESTATES” INCLUDES EIGHTY (80) ACRES OF SINGLE-FAMILY RESIDENTIAL AND RESIDENTIAL EQUESTRIAN, ONE (1) DWELLING UNIT PER MINIMUM HALF (½)-ACRE LOTS WITH SOME MINIMUM ONE (1) ACRE LOTS; FURTHER RECOMMENDING DENIAL OF GENERAL PLAN AMENDMENT 2004-002 TO CHANGE FROM THE GENERAL PLAN LAND USE DESIGNATION OF RESIDENTIAL LOW DENSITY (R-LD), ONE (1) DWELLING UNIT PER 2.5 TO 5.0 ACRES TO SPECIFIC PLAN (S-P) AND RECOMMENDING DENIAL OF ZONE CHANGE FROM RESIDENTIAL AGRICULTURE (R-A), ONE (1) DWELLING PER 2.5 TO 5.0 ACRE, ZONE DESIGNATION TO SPECIFIC PLAN (S-P) ZONE DESIGNATION OF, TENTATIVE TRACT MAP NO. 16922 WITHIN AN EIGHTY (80) ACRE PARCEL GENERALLY LOCATED AT THE NORTHWEST CORNER OF TUSSING RANCH ROAD AND DEEP CREEK ROAD; SECTION 7, TOWNSHIP 4 NORTH, RANGE 3 WEST OF SAN BERNARDINO MERIDIAN; APNS 0434-201-14 and -48; AND RECOMMENDING DENIAL OF TENTATIVE TRACT MAP NO. 16922.**

**WHEREAS**, the Town of Apple Valley General Plan was adopted by the Town Council on October 27, 1998; and

**WHEREAS**, the Town of Apple Valley General Plan has been previously amended by the Town Council on the recommendation of the Planning Commission; and

**WHEREAS**, Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley was adopted by the Town Council on October 24, 2000; and

**WHEREAS**, Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley has been previously amended by the Town Council on the recommendation of the Planning Commission; and

**WHEREAS**, specific changes are proposed to the Land Use Element of the adopted General Plan of the Town of Apple Valley by amending the Land Use Designation for parcels generally located on a site bordered on the north by Wren Road, on the south by Tussing Ranch Road and on the east by Deep Creek Road. APNs 0434-201-14 and -48 (Exhibit A); and

**WHEREAS**, specific changes are proposed to Chapter 9.05, Section 9.05.040 “Adoption of the Official Zoning Districts Map” of Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley by amending the zoning designation of parcels generally located on a site bordered located on a site bordered on the north by Wren Road, on the south by Tussing Ranch Road and on the east by Deep Creek Road. APNs 0434-201-14 and -48 (Exhibit A);

**WHEREAS**, on, May 2, 2008, General Plan Amendment and Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922; were duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

**WHEREAS**, on October 17, 2007, January 16, 2008, May 21, 2008 and June 4, 2008, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on General Plan Amendment and Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922, receiving testimony from the public; and

**WHEREAS**, the proposed General Plan Amendment and Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922 (Exhibit B) are not consistent with Town of Apple Valley General Plan and Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley and will not promote the health, safety and general welfare of the citizens of the Town of Apple Valley with the recommended modifications to the Specific Plan (Exhibit C).

**NOW, THEREFORE, BE IT RESOLVED, THAT IN CONSIDERATION OF THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, AND FOR THE REASONS DISCUSSED BY THE COMMISSIONERS AT SAID HEARING, THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, FINDS AND DETERMINES AS FOLLOWS AND RECOMMENDS THAT THE TOWN COUNCIL MAKE THE FOLLOWING FINDINGS AND TAKE THE FOLLOWING ACTIONS:**

**Section 1.** Denial of General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922, determines that the proposal is Exempt from CEQA.

**Section 2.** In consideration of the evidence received at the public hearing, and for the reasons discussed by the Commissioners at said hearings, the Planning Commission of the Town of Apple Valley, California, finds and recommends the Town Council find that General Plan Amendment and Zone Change No. 2004-002, Specific Plan No. 2004-002 (Exhibit C) and Tentative Tract Map No. 16922 (Exhibit B) are inconsistent with the Goals and Policies of the Town of Apple Valley adopted General Plan, adopt the required negative comments and findings recommended in the Staff Report for denial, and based upon those said negative findings, deny General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922.

Approved and adopted by the Planning Commission of the Town of Apple Valley this 4<sup>th</sup> day of June, 2008.

---

David Hernandez, Chairman

*Specific Plan No. 2004-002, General Plan Amendment , Zone Change No. 2004-002 and Tentative Tract Map No. 16922*

*June 4, 2008 Planning Commission Meeting*

ATTEST:

I, Patty Hevle, 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 4<sup>th</sup> day of June, 2008, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

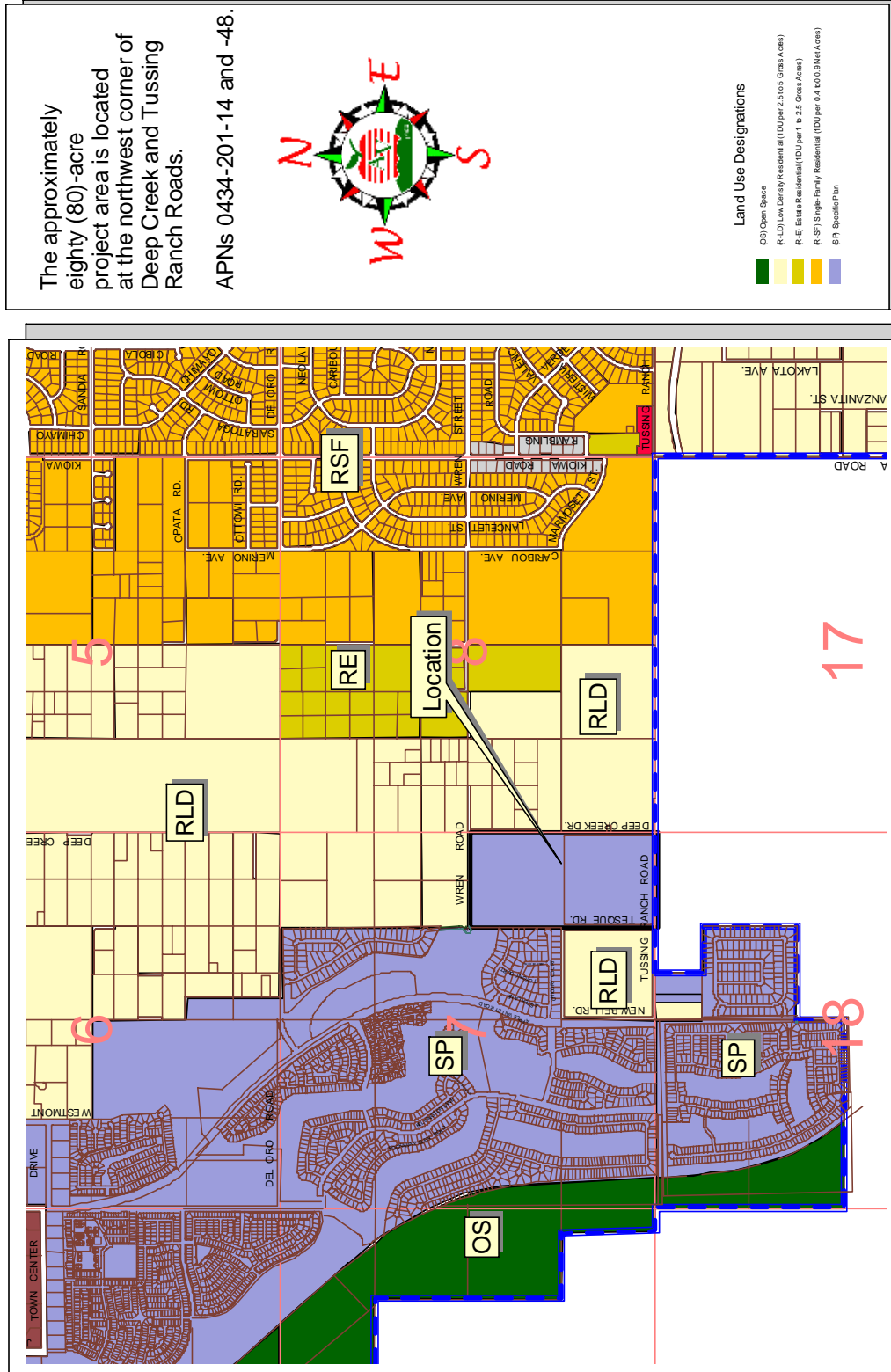
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Patty Hevle, Planning Commission Secretary

**Exhibit "A" - Proposed General Plan**

**Proposed General Plan Land Use**

**Deep Creek Estates General Plan Amendment No. 2004-002**



The approximately eighty (80)-acre project area is located at the northwest corner of Deep Creek and Tussing Ranch Roads.

APNs 0434-201-14 and -48.



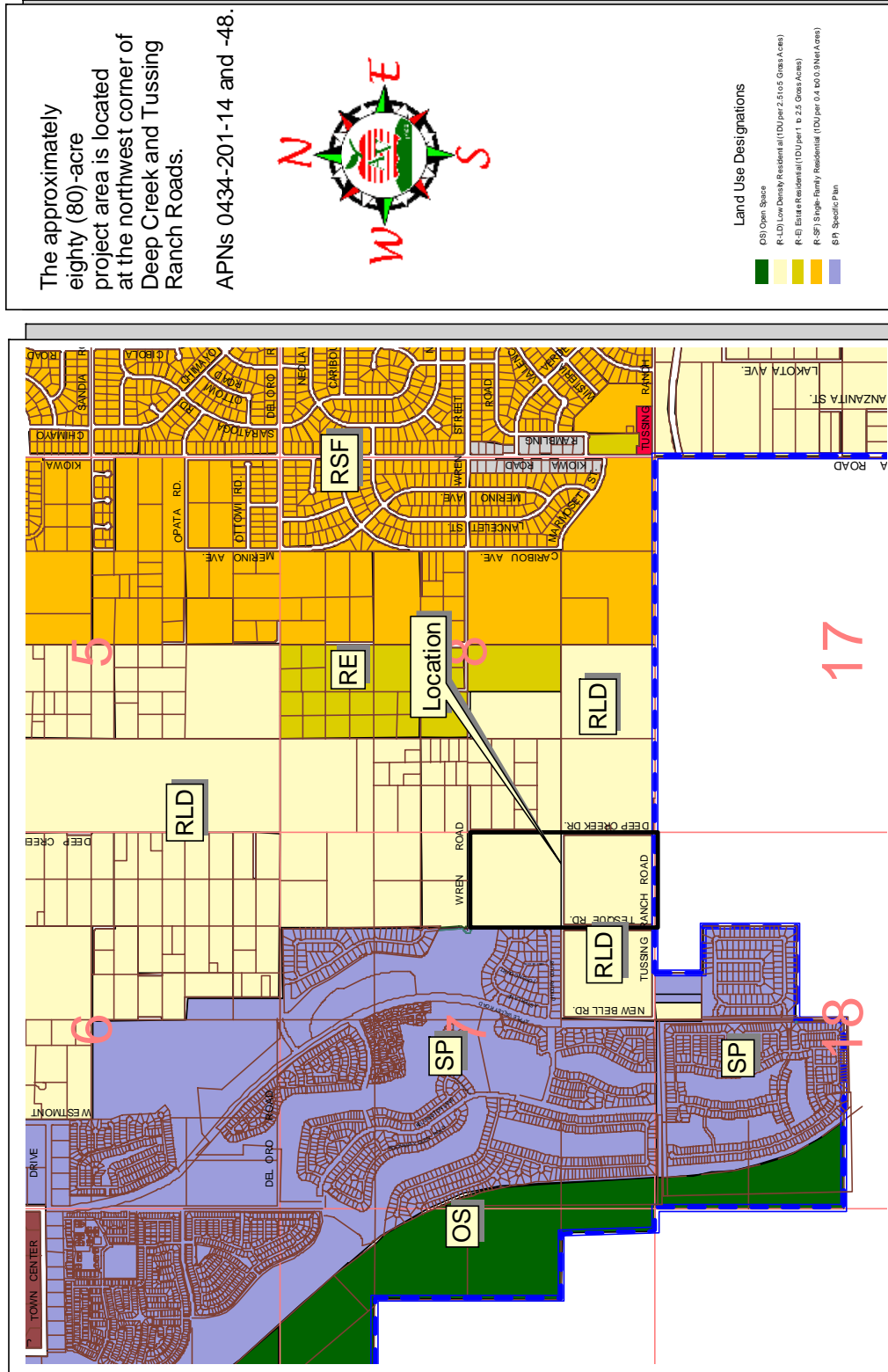
- Land Use Designations**
- OS) Open Space
  - R-LD) Low Density Residential (1 DU per 2.5 to 5 Gross Acres)
  - R-S) Estate Residential (1 DU per 1 to 2.5 Gross Acres)
  - R-SF) Single-Family Residential (1 DU per 0.4 to 0.8 Net Acres)
  - SP) Specific Plan

October 17, 2007

Exhibit "A" - Existing General Plan

Existing General Plan Land Use

Deep Creek Estates General Plan Amendment No. 2004-002



October 17, 2007

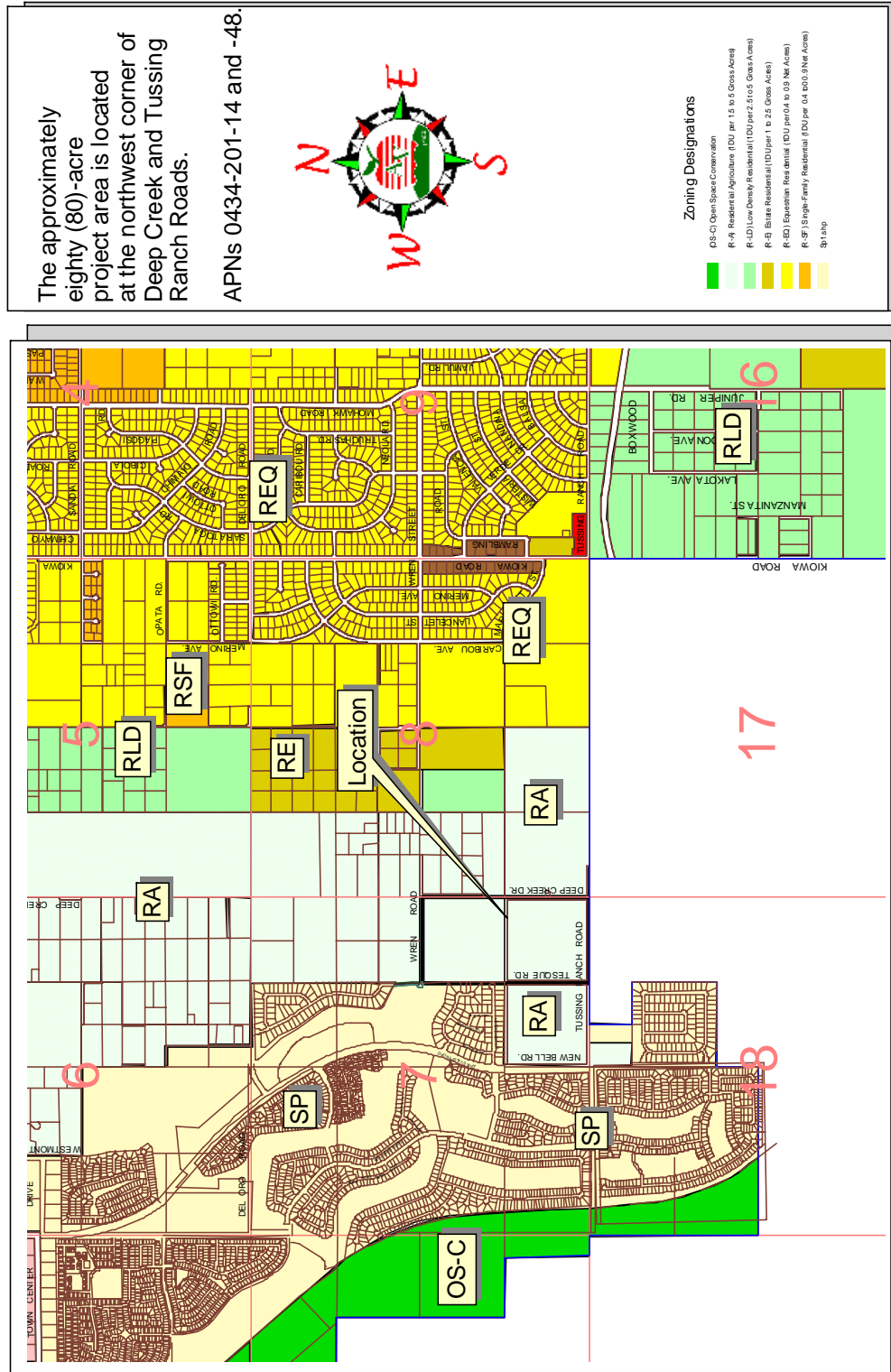




Exhibit "A" - Existing Zoning

Existing Zoning Designation

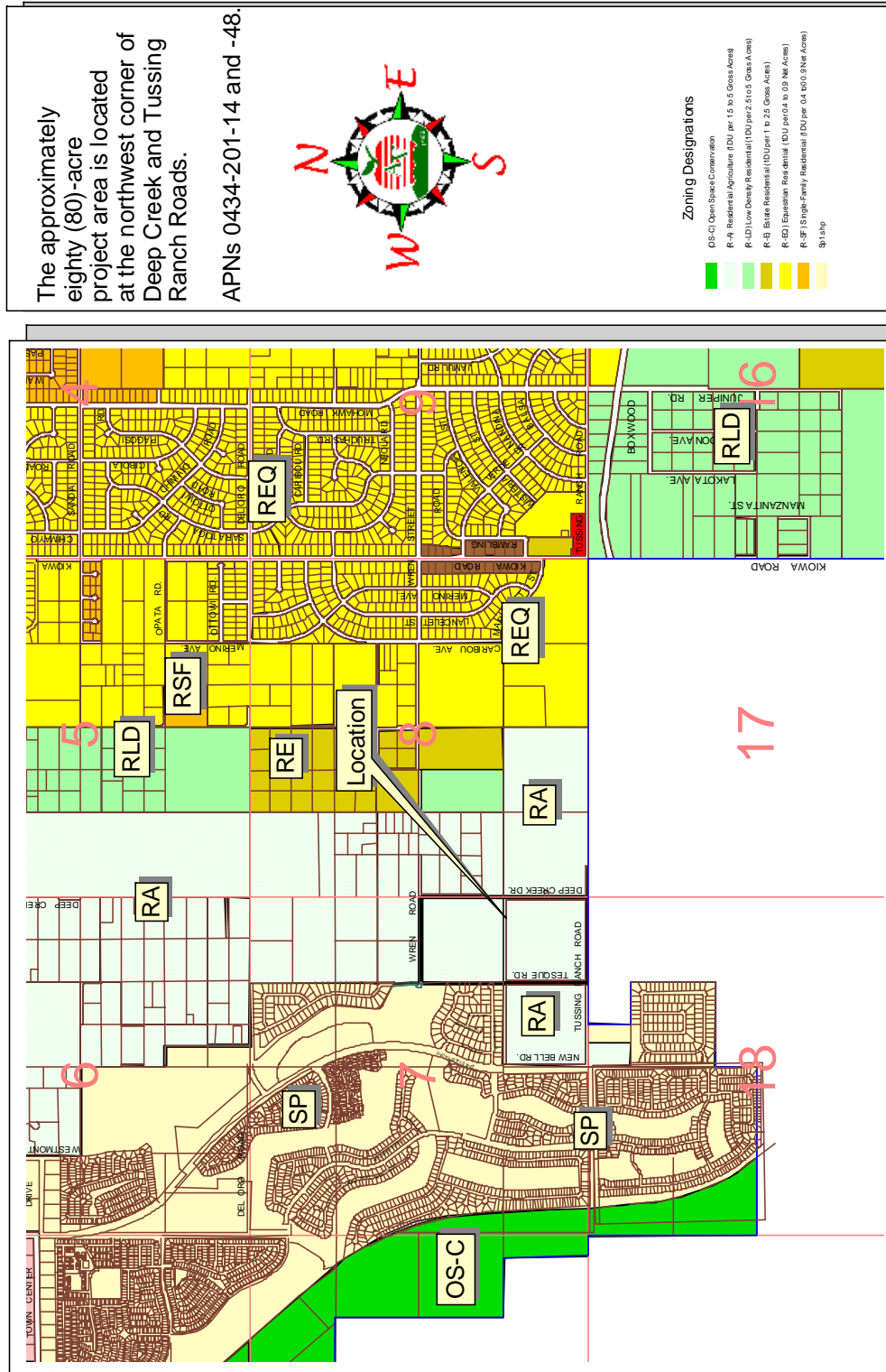
Deep Creek Estates Zone Change No. 2004-002



October 17, 2007

# Existing Zoning Designation

## Deep Creek Estates Zone Change No. 2004-002



October 17, 2007

**Exhibit “A” – Description of Property**

Tract 16922, being a subdivision of the following:

**Parcel “A”**

The northeast  $\frac{1}{4}$  of the southeast  $\frac{1}{4}$  of Section 7, Township 4 North, Range 3 West, San Bernardino Base and Meridian, in the County of San Bernardino, State of California, according to the official plat of said land on file in the District Land Office.

Excepting therefrom the north 16 feet thereof.

Also excepting therefrom all of the minerals, including and without limitation, all the oil, gas and other hydrocarbon substances but excluding explicitly limestone and without any rights to use the surface or that portion of said land lying within 500 feet of the surface, and also excepting the right to drill into and through said land below 500 feet from the surface, as reserved in deed recorded March 2, 1987, Instrument No. 87-66863, Official Records.

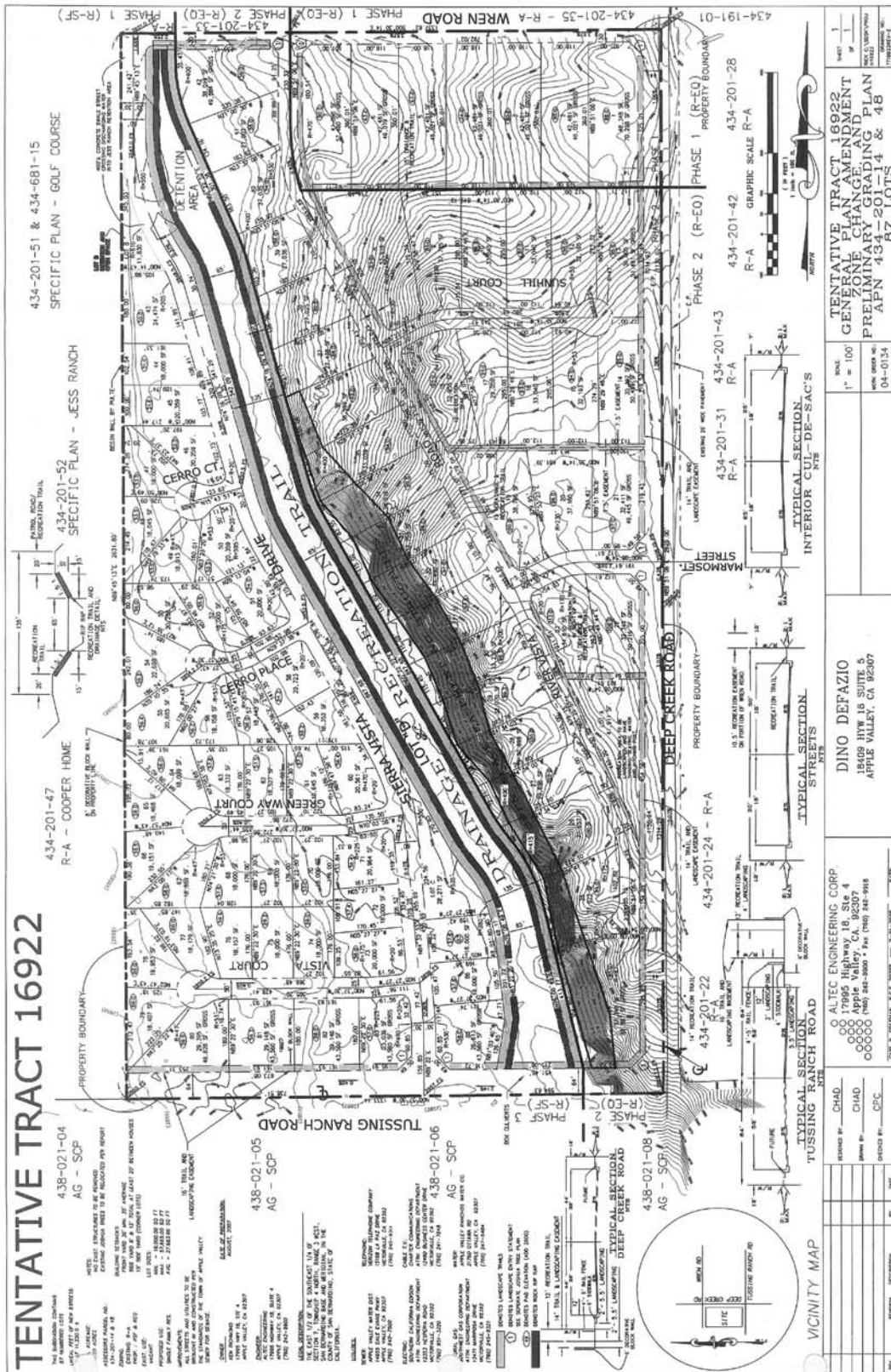
**Parcel “B”**

Parcel 2 of Parcel Map No. 12049, in the County of San Bernardino, State of California, as per plat recorded in Book 134 of Parcel Maps, Pages 53 and 54, records of said County.

Excepting therefrom all of the minerals, including and without limitation, all the oil, gas and other hydrocarbon substances but excluding explicitly limestone and without any rights to use the surface or that portion of said land lying within 500 feet of the surface, and also excepting the right to drill into and through said land Instrument No. 87-66866, Official Records.

APN: 0434-201-14-0-000 and 0434-201-48-0-000

Exhibit "B" - Tentative Tract Map No. 16922



<p>DATE: 04-10-08                  DRAWN BY: CHAD                  CHECKED BY: CPC</p>	<p>DATE: 04-10-08                  DRAWN BY: CHAD                  CHECKED BY: CPC</p>	<p>DATE: 04-10-08                  DRAWN BY: CHAD                  CHECKED BY: CPC</p>	<p>DATE: 04-10-08                  DRAWN BY: CHAD                  CHECKED BY: CPC</p>
<p>NO. 17995 Highway 18, Ste 4                  Apple Valley, CA 92307                  (951) 941-2666 • Fax (951) 941-9185                  TOLL FREE: 800-368-3888 • Fax: 351-3588</p>	<p>DINO DEFAZIO                  18409 HWY 18 SUITE 5                  APPLE VALLEY, CA 92307</p>	<p>1" = 100'                  WITH DATE 04-10-08</p>	<p>TENTATIVE TRACT 16922                  GENERAL PLAN AMENDMENT                  ZONE CHANGE AND                  PRELIMINARY GRADING PLAN                  APN 434-201-47 &amp; 48                  87 LOTS</p>

**MINUTE EXCERPT  
TOWN COUNCIL MEETING  
APRIL 22, 2008  
PUBLIC HEARING**

8. **General Plan Amendment No. 2004-002, Zone Change 2004-002, Specific Plan No. 2004-002 And Tentative Tract Map No. 16922. The Request Is For A Specific Plan (“Deep Creek Estates”). The Proposal Changes Approximately Eighty (80) Gross Acres With a Current Residential Low Density (R-LD), One (1) Dwelling Unit Per 2.5 To 5.0 Gross Acre Land Use Designation To Specific Plan (S-P) For The Subject Area And A Request To Consider Changing The Zoning Designation From Residential Agriculture (R-A), One (1) Dwelling Unit Per 2.5 To 5.0 Gross Acre To Specific Plan (S-P) For The Subject Area. The Applicant Has Requested To Subdivide The Total Eighty (80) Gross Acre Site, Under Tentative Tract Map No. 16922, Into Eighty-Seven (87) Single Family Lots. All Lots Are Single-Family Residential And Will Range From 18,000 Square Feet To 57,748 Square Feet In Size. The Approximately Eighty (80)-Acre Site Is Generally Located On The Northwest Corner Of Tussing Ranch And Deep Creek Roads; APNs 0434-201-14 And -48.**

Mayor Jasper opened the public hearing at 7:15 pm.

Lori Lamson, Assistant Director of Community Development, presented the staff report as filed with the Town Clerk.

Councilman Nassif requested to know if the Equestrian Advisory Committee had reviewed the project.

Ms. Lamson responded that they did when it was first submitted and recommended approval of the project. She stated that the area is zoned equestrian and therefore the applicant must comply with the multi-use trail conditions. She commented that the project did not comply fully with the 50% transitional density buffer for the perimeter of the project. She stated that at the Planning Commission meeting two voted in favor and two voted in opposition of the project.

Mr. Dino DeFazio, applicant, explained the proximity of the project to Jess Ranch and the Cooper Home. He further commented that the project is an equestrian subdivision and will be an asset to the community. He stated the project would be a lot sale program and all the homes would be custom built. Mr. DeFazio also stated that he is providing two parks in the development as well as paying Quimby fees. The parks will be accessible to the public and maintained by a Homeowner’s Association.

Mr. DeFazio stated that the Town will benefit by the infrastructure improvements they will be adding to the area, such as drainage, sewer and mitigation of traffic impacts. The project will be mixed use with equestrian size lots as well as residential ½ acre lots that would back up to Jess Ranch with the larger lots being planned for the front of the project.

Councilman Nassif pointed out the concerns of the Planning Commission regarding larger parks and one acre buffering.

Ms. Lamson explained that the area of the project that backs up to the Cooper home does not

meet the code requirement for buffering. She also commented that the General Plan Advisory Committee was considering recommending one acre lots in this area.

Mr. DeFazio stated that the Specific Plan has no guidelines for the size of parks.

Ms. Lamson stated that per Council policy, any park less than one acre is not adequate in a Specific Plan. She stated both parks need to be over one acre in size and any park that is less than one acre is subject to Quimby fees.

Kenneth Henderson, Director of Economic and Community Development, explained that the Specific Plan does not comply with Council policy or the State Government Code provisions. He commented that if the Council were to waive the park size policy, it could set a precedent for other development.

Councilman Nassif suggested that the two parks be combined to make one large park.

Mr. DeFazio stated he would be willing to make one large park.

Carl Coleman, Project Engineer, spoke about the improvements to Deep Creek Road that would be completed by the developer.

John Regner, Apple Valley expressed his opposition to the project due to the small lot sizes.

Joan Paustell, Apple Valley, commented that there is no market for these homes at this time due to the economy. He respectfully asked the Council to support the Planning Commission's decision to deny the project.

Chuck Hanson, Apple Valley, opposed the project due to the added traffic impacts.

Ian Bryant, Apple Valley, President of Deep Creek Agricultural Association, expressed his opposition to the project due to the lot sizes and the insufficient amenities associated with this Specific Plan.

Lovella Sullivan, Chairperson of the Equestrian Advisory Committee, commented on the majority of the Equestrian Advisory Committee members being in favor of the project.

Gail Nunn-Henderson, Equestrian Advisory Committee, spoke about the project enhancing the equestrian lifestyle.

There being no additional requests to speak, Mayor Jasper closed the public hearing at 8:11 p.m.

Discussion ensued by the Council concerning making amendments to the project.

Mr. Henderson recommended to the Council that if they wanted to make amendments to the project that they remand it back to the Planning Commission giving them specific direction as to what amendments they were considering, so that they can be included in the staff report.

*Specific Plan No. 2004-002, General Plan Amendment , Zone Change No. 2004-002 and Tentative Tract Map No. 16922*

*June 4, 2008 Planning Commission Meeting*

The Council was in agreement with all modifications listed in the staff report, except that Item No. 1 should be changed to combine both parks into one. Discussion ensued regarding requiring larger lot sizes for the ½ acre designated lots within the development.

**MOTION**

Mayor Pro Tem Sagona made a motion that the recommended modifications in the staff report be applied and to send the item back to the Planning Commission to direct them to consider a minimum lot size of ¾ acre.

Motion died for lack of a second.

**MOTION**

Councilman Allan made a motion, seconded by Councilman Nassif that the item be sent back to the Planning Commission for their review and to apply the recommended modifications in the staff report to the Specific Plan.

Vote: Motion carried 5-0-0-0

Yes: Councilman Allan; Councilman Nassif; Councilman Roelle; Mayor Pro Tem Sagona; Mayor Jasper. Absent: None.

**RECESS**

Mayor Jasper, with the consensus of the Council, called for a recess at 8:28 p.m.

**RECONVENE**

Mayor Jasper reconvened the meeting at 8:36 p.m.



**MINUTE EXCERPT  
PLANNING COMMISSION MEETING  
JANUARY 16, 2008**

**2. General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922.**

**Applicant:** Carl Coleman, of Altec Engineering, Corp.

**Location:** The approximately eighty (80)-acre project area is located at the northwest corner of Deep Creek and Tussing Ranch Roads; APNs 0434-201-14 and -48.

Chairman Hernandez reopened the public hearing at 7:07 p.m.

Mr. Dino DeFazio, the applicant, presented an update of his project and stated he has resolved eight (8) of the issues of concern. Mr. DeFazio commented on some discrepancies with staff and the Commission concerning the project.

Mr. DeFazio stated he had designed two (2) parks for the project and has 4-½ acres of Equestrian Trails, including interior trails. He also stated he agreed to eighty-three (83) lots instead of eight-seven (87) lots. He is also paying park fees as well as providing parks at the site. Mr. DeFazio stated he would be willing to reduce the lots even more and commented on the Specific Plan guidelines being too vague.

Chairman Hernandez questioned whether there were any changes on the plans.

Mr. Carl Coleman, the engineer for the applicant, commented on a change in the Open Space. He also commented on leaving the wall requirement on Deep Creek Road as well as the sidewalks.

Chairman Hernandez requested to know if there were any changes to the lot sizes.

Mr. Coleman responded there were none; however, they are proposing one (1)-acre lots along the perimeters and half (1/2)-acre lots abutting Jess Ranch.

Ms. Reynolds clarified the history concerning the applicants' project.

Mr. Coleman quoted General Plan policies, stating he did not agree with the staff Finding that the project was not consistent with the area. He stated infrastructure improvements would be made to the area that would benefit the health and welfare of the community.

Commissioner Putko commented on the Cooper Home and Jess Ranch not being in the Deep Creek Corridor.

Mr. Coleman responded they are adjacent to the property.

Mr. DeFazio explained the proximity of the project to Jess Ranch and the Cooper Home. He further commented the project is an equestrian subdivision and will be an asset to the community. He stated the project would be a lot-sale program and all the homes would be custom built.

Mr. Ian Bryant, Apple Valley, President of the Deep Creek Agricultural Association, stated the lot sizes were not consistent with the area and requested denial of the project.

Mr. Ken Henderson, Director of Economic and Community Development, stated, in staff's opinion, the Specific Plan application did not conform to the Town Development Code chapter relating to Specific Plans. He stated the amenities offered were insufficient. Mr. Henderson stated the applicant was unwilling to make any changes and requested the project go forward to the Town Council.

Since there was no one in the audience requesting to speak to this item, Chairman Hernandez closed the public hearing at 7:39 p.m.

Chairman Hernandez and Commissioner Putko stated they agreed with the staff recommendation for denial.

Vice-Chairman Tinsley commented the applicant had alleviated some of his concerns. He felt the project would benefit the area by having a park and by alleviating traffic issues on Deep Creek Road.

Commissioner Allen stated there were a number of changes to the project and the transition between half (1/2)-acre lots and the larger lots is reasonable. Commissioner Allen commended the applicant on his changes and was in favor of the applicants marketing the property as lot sales.

Ms. Lamson, Assistant Director of Community Development, commented, if the Commission wished to approve the Item, then they would have to continue the Item to allow staff to time to bring back a Resolution in favor of the project.

**MOTION:**

Motion by Vice-Chairman Tinsley, seconded by Commissioner Allen, to approve and continue this item to the February 6, 2008 Planning Commission meeting to allow staff time to bring back a Planning Commission Resolution in favor of the project.

**Discussion on Motion:**

Mr. Henderson stated that, in the event of a tie vote, it would mean staff's recommendation for denial would be approved. He suggested clarification be made, as to whether or not there were three Commissioners in support of the project, not in support, or whether a straw vote would indicate a 2-2 tie vote that would uphold the staff recommendation for denial.

*Specific Plan No. 2004-002, General Plan Amendment , Zone Change No. 2004-002 and Tentative Tract Map No. 16922*

*June 4, 2008 Planning Commission Meeting*

**ROLL CALL VOTE:**

Ayes: Commissioner Allen  
Vice-Chairman Tinsley  
Noes: Commissioner Putko  
Chairman Hernandez  
Abstain: None  
Absent: Commissioner Kallen

**The motion failed by 2-2-0-1 and the project was denied**

**Commissioner Kallen returned to the dais at 7:55 p.m.**

**MINUTE EXCERPT  
PLANNING COMMISSION MEETING  
OCTOBER 17, 2007**

**RECESS**

Chairman Hernandez called for a recess at 6:45 p.m.

**RECONVENED**

Chairman Hernandez reconvened the meeting at 6:50 p.m.

Commissioner Kallen recused himself from this item due to a conflict of interest and left the dais at 6:51 p.m.

**3. General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922.**

**Applicant:** Mr. Carl Coleman of Altec Engineering, Corp.

**Location:** The approximately 80 acre project area is located at the northwest corner of Deep Creek and Tussing Ranch Roads; APNs 0434-201-14 and -48.

Chairman Hernandez opened the public hearing at 6:51 p.m.

Ms. Carol Miller, Senior Planner, presented the staff report as filed by the Planning Division. Ms. Miller commented on changes to the Conditions of Approval as well as the Findings as recommended by the Town Attorney. She stated staff's recommendation of approval would be based on the modifications to the Specific Plan as outlined in the staff report.

Commissioner Putko questioned the size of the two (2) parks.

Vice-Chairman Tinsley asked about water conservation for the retention basins.

Commissioner Allen asked about the use of reclaimed water.

Mr. Rodger Lopez, Public Works Supervisor, stated there is a master plan for a subregional treatment plant to be operated by the Victor Valley Wastewater Reclamation Authority within the southern boundaries of the Town. Once that is completed, reclaimed water would be available for the area for use in the medians and golf courses.

Chairman Hernandez requested to know if staff was satisfied with the amenities included in the Specific Plan.

Ms. Lamson stated that staff has provided a list of recommended changes to the Specific Plan, one of which, is an increase in the park sizes.

Chairman Hernandez asked about mass grading of the property.

Mr. Richard Pedersen, Deputy Town Engineer, responded there is a thirty (30)-foot drop north of Tussing Ranch Road and it would have to be realigned, dropping it to seventeen

(17) feet. He stated a construction easement may need to be purchased from the property owner at the northeast corner.

Mr. Dino DeFazio, the applicant, stated the project has two (2) parks, one of which is an equestrian park. He stated they were also paying Quimby fees. Mr. DeFazio advised he was planning on selling the project as individual lots. He further stated there would be no mass grading except for the intersection of Tussing Ranch and Deep Creek Roads. He stated there were 2.4 acres of equestrian trails at the site and the project meets all the requirements of Measure N.

Mr. DeFazio stated he preferred a split-rail fence along Deep Creek Road instead of a block wall and no sidewalks along that road.

Commissioner Allen asked about the Joshua Trees in the area being moved.

Mr. DeFazio responded that, since he is selling the individual lots, the trees outside of the right-of-way would remain and the future owners of the lots would determine whether or not they wished to move them.

Mr. DeFazio further commented there were some landscaping Conditions of Approval he did not agree with, but would work with staff to alleviate those concerns.

Mr. Carl Coleman, the engineer for the applicant, commented on some concerns with staff's recommendations for the Specific Plan modifications. He stated they were willing to increase the size of the park land if the Commission so desired. He also expressed concerns with Conditions of Approval Nos. P23 and EC29.

Chief Art Bishop, of the Apple Valley Fire Protection District, commented on some changes to their Conditions of Approval.

Mr. Chris Moyer, of Apple Valley, stated he appreciated the rural setting of the project, as well as the equestrian feel and split-rail fencing proposed by the applicant; however, he did not feel the densities were compatible with the area. He stated he was against the project.

Ms. Lovella Sullivan, Apple Valley, read a statement from the Equestrian Advisory Committee. She stated they were in favor of the project and appreciated the rural atmosphere, but were also against the proposed block wall.

Mr. David Holtz, of Apple Valley, also felt that one-acre lots were incompatible with the surrounding area and spoke against the project.

Ms. Joan Paustell, of Apple Valley, expressed her opposition to the project. She felt the General Plan update should be completed before rezoning is done in the area.

Mr. Dave Dundon, Apple Valley, stated he was in favor of the project.

Mr. Tom Hrubik, Apple Valley, commended the applicants for the project design and lot sizes and stated he was in support of the project.

Ms. Gayle Flinchum, of Apple Valley, stated she was opposed to the project, but appreciated the rural design. She felt the lot sizes should be 2-½ acres minimum.

Mr. Ian Bryant, the President of the Deep Creek Agricultural Association, stated all of the property owners were not notified of the project. He stated the project was incompatible with the surrounding area and would set a precedent for future development along Deep Creek Road. Mr. Bryant further commented that the General Plan update should be completed before any projects are approved for this area.

Since there was no one else in the audience requesting to speak to this item, Chairman Hernandez closed the public hearing at 8:13 p.m.

Chairman Hernandez requested to know why the wall was required on Deep Creek Road.

Ms. Lamson stated it is a standard requirement on all secondary and arterial streets, unless there is a significant setback of the homes along those types of streets.

Mr. DeFazio responded that their sound study for the project indicated the need for a block wall along Tussing Ranch Road; however, no block wall for noise mitigation was needed on Deep Creek Road.

Ms. Lamson stated the project must be consistent with other development in the Town, which identifies through several noise studies that a buffer is required for secondary roads.

Chairman Hernandez questioned staff regarding accepting in-lieu fees instead of requiring the sidewalks.

Mr. Richard Pedersen, Deputy Town Engineer, stated staff would consistently require sidewalks along Deep Creek Road when it develops; however, they could be done at a future date.

Ms. Lamson stated staff felt the bluff should be preserved for open space with natural landscaping and recommended development be prohibited in this area.

Chairman Hernandez agreed that the General Plan should be updated before this area is developed.

Vice-Chairman Tinsley felt the project had issues that needed to be resolved between the applicant and staff.

Ms. Lamson stated it was the applicant's desire to bring the project before the Commission at this time, knowing that staff had many changes to the Specific Plan as presented.

Commissioner Putko agreed there were many issues that needed to be resolved.

Ms. Lamson explained the process should the Commission choose to deny the project.

*June 4, 2008 Planning Commission Meeting*

Mr. Coleman stated he and Mr. DeFazio would prefer a continuance to the first meeting in December so they could work with staff to resolve some of the issues.

Mr. Dafazio stated that they could work with staff on all the issues discussed except for the lot sizes. He indicated that he has no intentions of increasing the lot sizes and will take this issue to the Council.

Chairman Hernandez indicated that if the applicant was not willing to increase lot sizes, that a continuance to December would just be postponing the issue at hand. He stated his opposition to a continuance.

**MOTION:**

Motion by Commissioner Allen, seconded by Vice-Chairman Tinsley, that the Planning Commission move to continue the public hearing for this item to the regular meeting of December 5, 2007.

**ROLL CALL VOTE:**

Ayes: Commissioner Allen  
Commissioner Putko  
Vice-Chairman Tinsley

Noes: Chairman Hernandez

Abstain: None

Absent: Commissioner Kallen

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

**Attachment No. 7**

**MINUTE EXCERPT  
TOWN COUNCIL MEETING  
APRIL 22, 2008  
PUBLIC HEARING**

8. **General Plan Amendment No. 2004-002, Zone Change 2004-002, Specific Plan No. 2004-002 And Tentative Tract Map No. 16922. The Request Is For A Specific Plan (“Deep Creek Estates”). The Proposal Changes Approximately Eighty (80) Gross Acres With a Current Residential Low Density (R-LD), One (1) Dwelling Unit Per 2.5 To 5.0 Gross Acre Land Use Designation To Specific Plan (S-P) For The Subject Area And A Request To Consider Changing The Zoning Designation From Residential Agriculture (R-A), One (1) Dwelling Unit Per 2.5 To 5.0 Gross Acre To Specific Plan (S-P) For The Subject Area. The Applicant Has Requested To Subdivide The Total Eighty (80) Gross Acre Site, Under Tentative Tract Map No. 16922, Into Eighty-Seven (87) Single Family Lots. All Lots Are Single-Family Residential And Will Range From 18,000 Square Feet To 57,748 Square Feet In Size. The Approximately Eighty (80)-Acre Site Is Generally Located On The Northwest Corner Of Tussing Ranch And Deep Creek Roads; APNs 0434-201-14 And -48.**

Mayor Jasper opened the public hearing at 7:15 pm.

Lori Lamson, Assistant Director of Community Development, presented the staff report as filed with the Town Clerk.

Councilman Nassif requested to know if the Equestrian Advisory Committee had reviewed the project.

Ms. Lamson responded that they did when it was first submitted and recommended approval of the project. She stated that the area is zoned equestrian and therefore the applicant must comply with the multi-use trail conditions. She commented that the project did not comply fully with the 50% transitional density buffer for the perimeter of the project. She stated that at the Planning Commission meeting two voted in favor and two voted in opposition of the project.

Mr. Dino DeFazio, applicant, explained the proximity of the project to Jess Ranch and the Cooper Home. He further commented that the project is an equestrian subdivision and will be an asset to the community. He stated the project would be a lot sale program and all the homes would be custom built. Mr. DeFazio also stated that he is providing two parks in the development as well as paying Quimby fees. The parks will be accessible to the public and maintained by a Homeowner’s Association.

Mr. DeFazio stated that the Town will benefit by the infrastructure improvements they will be adding to the area, such as drainage, sewer and mitigation of traffic impacts. The project will be mixed use with equestrian size lots as well as residential ½ acre lots that would back up to Jess Ranch with the larger lots being planned for the front of the project.

Councilman Nassif pointed out the concerns of the Planning Commission regarding larger parks and one acre buffering.

Ms. Lamson explained that the area of the project that backs up to the Cooper home does not meet the code requirement for buffering. She also commented that the General Plan Advisory



Committee was considering recommending one acre lots in this area.

Mr. DeFazio stated that the Specific Plan has no guidelines for the size of parks.

Ms. Lamson stated that per Council policy, any park less than one acre is not adequate in a Specific Plan. She stated both parks need to be over one acre in size and any park that is less than one acre is subject to Quimby fees.

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Mr. DeFazio stated he would be willing to make one large park.

Carl Coleman, Project Engineer, spoke about the improvements to Deep Creek Road that would be completed by the developer.

John Regner, Apple Valley expressed his opposition to the project due to the small lot sizes.

Joan Paustell, Apple Valley, commented that there is no market for these homes at this time due to the economy. He respectfully asked the Council to support the Planning Commission's decision to deny the project.

Chuck Hanson, Apple Valley, opposed the project due to the added traffic impacts.

Ian Bryant, Apple Valley, President of Deep Creek Agricultural Association, expressed his opposition to the project due to the lot sizes and the insufficient amenities associated with this Specific Plan.

Lovella Sullivan, Chairperson of the Equestrian Advisory Committee, commented on the majority of the Equestrian Advisory Committee members being in favor of the project.

Gail Nunn-Henderson, Equestrian Advisory Committee, spoke about the project enhancing the equestrian lifestyle.

There being no additional requests to speak, Mayor Jasper closed the public hearing at 8:11 p.m.

Discussion ensued by the Council concerning making amendments to the project.

Mr. Henderson recommended to the Council that if they wanted to make amendments to the project that they remand it back to the Planning Commission giving them specific direction as to what amendments they were considering, so that they can be included in the staff report.

The Council was in agreement with all modifications listed in the staff report, except that Item No. 1 should be changed to combine both parks into one. Discussion ensued regarding requiring larger lot sizes for the ½ acre designated lots within the development.

**MOTION**

Mayor Pro Tem Sagona made a motion that the recommended modifications in the staff report be applied and to send the item back to the Planning Commission to direct them to consider a minimum lot size of  $\frac{3}{4}$  acre.

Motion died for lack of a second.

**MOTION**

Councilman Allan made a motion, seconded by Councilman Nassif that the item be sent back to the Planning Commission for their review and to apply the recommended modifications in the staff report to the Specific Plan.

Vote: Motion carried 5-0-0-0

Yes: Councilman Allan; Councilman Nassif; Councilman Roelle; Mayor Pro Tem Sagona; Mayor Jasper. Absent: None.

**RECESS**

Mayor Jasper, with the consensus of the Council, called for a recess at 8:28 p.m.

**RECONVENE**

Mayor Jasper reconvened the meeting at 8:36 p.m.

## **Attachment No. 8**

### **MINUTE EXCERPT PLANNING COMMISSION MEETING OCTOBER 17, 2007**

#### **RECESS**

Chairman Hernandez called for a recess at 6:45 p.m.

#### **RECONVENED**

Chairman Hernandez reconvened the meeting at 6:50 p.m.

Commissioner Kallen recused himself from this item due to a conflict of interest and left the dais at 6:51 p.m.

#### **4. General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922.**

**Applicant:** Mr. Carl Coleman of Altec Engineering, Corp.

**Location:** The approximately 80 acre project area is located at the northwest corner of Deep Creek and Tussing Ranch Roads; APNs 0434-201-14 and -48.

Chairman Hernandez opened the public hearing at 6:51 p.m.

Ms. Carol Miller, Senior Planner, presented the staff report as filed by the Planning Division. Ms. Miller commented on changes to the Conditions of Approval as well as the Findings as recommended by the Town Attorney. She stated staff's recommendation of approval would be based on the modifications to the Specific Plan as outlined in the staff report.

Commissioner Putko questioned the size of the two (2) parks.

Vice-Chairman Tinsley asked about water conservation for the retention basins.

Commissioner Allen asked about the use of reclaimed water.

Mr. Rodger Lopez, Public Works Supervisor, stated there is a master plan for a subregional treatment plant to be operated by the Victor Valley Wastewater Reclamation Authority within the southern boundaries of the Town. Once that is completed, reclaimed water would be available for the area for use in the medians and golf courses.

Chairman Hernandez requested to know if staff was satisfied with the amenities included in the Specific Plan.

Ms. Lamson stated that staff has provided a list of recommended changes to the Specific Plan, one of which, is an increase in the park sizes.

Chairman Hernandez asked about mass grading of the property.

Mr. Richard Pedersen, Deputy Town Engineer, responded there is a thirty (30)-foot drop north of Tussing Ranch Road and it would have to be realigned, dropping it to seventeen (17) feet. He stated a construction easement may need to be purchased from the property owner at the northeast corner.

Mr. Dino DeFazio, the applicant, stated the project has two (2) parks, one of which is an equestrian park. He stated they were also paying Quimby fees. Mr. DeFazio advised he was planning on selling the project as individual lots. He further stated there would be no mass grading except for the intersection of Tussing Ranch and Deep Creek Roads. He stated there were 2.4 acres of equestrian trails at the site and the project meets all the requirements of Measure N.

Mr. DeFazio stated he preferred a split-rail fence along Deep Creek Road instead of a block wall and no sidewalks along that road.

Commissioner Allen asked about the Joshua Trees in the area being moved.

Mr. DeFazio responded that, since he is selling the individual lots, the trees outside of the right-of-way would remain and the future owners of the lots would determine whether or not they wished to move them.

Mr. DeFazio further commented there were some landscaping Conditions of Approval he did not agree with, but would work with staff to alleviate those concerns.

Mr. Carl Coleman, the engineer for the applicant, commented on some concerns with staff's recommendations for the Specific Plan modifications. He stated they were willing to increase the size of the park land if the Commission so desired. He also expressed concerns with Conditions of Approval Nos. P23 and EC29.

Chief Art Bishop, of the Apple Valley Fire Protection District, commented on some changes to their Conditions of Approval.

Mr. Chris Moyer, of Apple Valley, stated he appreciated the rural setting of the project, as well as the equestrian feel and split-rail fencing proposed by the applicant; however, he did not feel the densities were compatible with the area. He stated he was against the project.

Ms. Lovella Sullivan, Apple Valley, read a statement from the Equestrian Advisory Committee. She stated they were in favor of the project and appreciated the rural atmosphere, but were also against the proposed block wall.

Mr. David Holtz, of Apple Valley, also felt that one-acre lots were incompatible with the surrounding area and spoke against the project.

Ms. Joan Paustell, of Apple Valley, expressed her opposition to the project. She felt the General Plan update should be completed before rezoning is done in the area.

Mr. Dave Dundon, Apple Valley, stated he was in favor of the project.

Mr. Tom Hrubik, Apple Valley, commended the applicants for the project design and lot sizes and stated he was in support of the project.

Ms. Gayle Flinchum, of Apple Valley, stated she was opposed to the project, but appreciated the rural design. She felt the lot sizes should be 2-½ acres minimum.

Mr. Ian Bryant, the President of the Deep Creek Agricultural Association, stated all of the property owners were not notified of the project. He stated the project was incompatible with the surrounding area and would set a precedent for future development along Deep Creek Road. Mr. Bryant further commented that the General Plan update should be completed before any projects are approved for this area.

Since there was no one else in the audience requesting to speak to this item, Chairman Hernandez closed the public hearing at 8:13 p.m.

Chairman Hernandez requested to know why the wall was required on Deep Creek Road.

Ms. Lamson stated it is a standard requirement on all secondary and arterial streets, unless there is a significant setback of the homes along those types of streets.

Mr. DeFazio responded that their sound study for the project indicated the need for a block wall along Tussing Ranch Road; however, no block wall for noise mitigation was needed on Deep Creek Road.

Ms. Lamson stated the project must be consistent with other development in the Town, which identifies through several noise studies that a buffer is required for secondary roads.

Chairman Hernandez questioned staff regarding accepting in-lieu fees instead of requiring the sidewalks.

Mr. Richard Pedersen, Deputy Town Engineer, stated staff would consistently require sidewalks along Deep Creek Road when it develops; however, they could be done at a future date.

Ms. Lamson stated staff felt the bluff should be preserved for open space with natural landscaping and recommended development be prohibited in this area.

Chairman Hernandez agreed that the General Plan should be updated before this area is developed.

Vice-Chairman Tinsley felt the project had issues that needed to be resolved between the applicant and staff.

Ms. Lamson stated it was the applicant's desire to bring the project before the Commission at this time, knowing that staff had many changes to the Specific Plan as presented.

Commissioner Putko agreed there were many issues that needed to be resolved.

Ms. Lamson explained the process should the Commission choose to deny the project.

Mr. Coleman stated he and Mr. DeFazio would prefer a continuance to the first meeting in December so they could work with staff to resolve some of the issues.

Mr. Dafazio stated that they could work with staff on all the issues discussed except for the lot sizes. He indicated that he has no intentions of increasing the lot sizes and will take this issue to the Council.

Chairman Hernandez indicated that if the applicant was not willing to increase lot sizes, that a continuance to December would just be postponing the issue at hand. He stated his opposition to a continuance.

**MOTION:**

Motion by Commissioner Allen, seconded by Vice-Chairman Tinsley, that the Planning Commission move to continue the public hearing for this item to the regular meeting of December 5, 2007.

**ROLL CALL VOTE:**

Ayes: Commissioner Allen  
Commissioner Putko  
Vice-Chairman Tinsley  
Noes: Chairman Hernandez  
Abstain: None  
Absent: Commissioner Kallen  
The motion carried by a 4-0-0-1 vote

**Attachment No. 8**

**MINUTE EXCERPT  
PLANNING COMMISSION MEETING  
January 16, 2008**

**PUBLIC HEARING ITEMS**

**Commissioner Kallen left the dais at 6:05 p.m. due to a potential conflict of interest concerning Item No. 2.**

**2. General Plan Amendment No. 2004-002, Zone Change No. 2004-002, Specific Plan No. 2004-002 and Tentative Tract Map No. 16922.**

**Applicant:** Carl Coleman of Altec Engineering, Corp.

**Location:** The approximately eighty (80)-acre project area is located at the northwest corner of Deep Creek and Tussing Ranch Roads; APNs 0434-201-14 and -48.

Chairman Hernandez re-opened the open, continued public hearing at 6:05 p.m.

Ms. Becky Reynolds, Principal Planner, presented the staff report as filed by the Planning Division. Ms. Reynolds stated that, per the Town Attorney, Item Nos 5 through 8 should be deleted in the staff Recommendation section of the staff report. She also commented on some minor changes to the Planning Commission Resolution No. 2007-028. She stated staff was recommending denial of the project.

Mr. Dino DeFazio, the applicant, stated his engineer had not yet arrived and requested the Commission hear the Item at a later time in the hearing.

It was the consensus of the Commission to hear this Item after Agenda Item No. 4.

**Commissioner Kallen returned to the dais at 6:10 p.m.**

Chairman Hernandez returned to Item No. 2 on the Agenda at this time.

**Commissioner Kallen left the dais at 7:07 p.m. due to a potential conflict of interest.**

Chairman Hernandez reopened the public hearing at 7:07 p.m.

Mr. Dino DeFazio, the applicant, presented an update of his project and stated he has resolved eight (8) of the issues of concern. Mr. DeFazio commented on some discrepancies with staff and the Commission concerning the project.

Mr. DeFazio stated he had designed two (2) parks for the project and has 4-½ acres of Equestrian Trails, including interior trails. He also stated he agreed to eighty-three (83) lots instead of eight-seven (87) lots. He is also paying park fees as well as providing parks at the site. Mr. DeFazio stated he would be willing to reduce the lots even more and commented on the Specific Plan guidelines being too vague.

Chairman Hernandez questioned whether there were any changes on the plans.

Mr. Carl Coleman, the engineer for the applicant, commented on a change in the Open Space. He also commented on leaving the wall requirement on Deep Creek Road as well as the sidewalks.

Chairman Hernandez requested to know if there were any changes to the lot sizes.

Mr. Coleman responded there were none; however, they are proposing one (1)-acre lots along the perimeters and half (1/2)-acre lots abutting Jess Ranch.

Ms. Reynolds clarified the history concerning the applicants' project.

Mr. Coleman quoted General Plan policies, stating he did not agree with the staff Finding that the project was not consistent with the area. He stated infrastructure improvements would be made to the area that would benefit the health and welfare of the community.

Commissioner Putko commented on the Cooper Home and Jess Ranch not being in the Deep Creek Corridor.

Mr. Coleman responded they are adjacent to the property.

Mr. DeFazio explained the proximity of the project to Jess Ranch and the Cooper Home. He further commented the project is an equestrian subdivision and will be an asset to the community. He stated the project would be a lot-sale program and all the homes would be custom built.

Mr. Ian Bryant, Apple Valley, President of the Deep Creek Agricultural Association, stated the lot sizes were not consistent with the area and requested denial of the project.

Mr. Ken Henderson, Director of Economic and Community Development, stated, in staff's opinion, the Specific Plan application did not conform to the Town Development Code chapter relating to Specific Plans. He stated the amenities offered were insufficient. Mr. Henderson stated the applicant was unwilling to make any changes and requested the project go forward to the Town Council.

Since there was no one in the audience requesting to speak to this item, Chairman Hernandez closed the public hearing at 7:39 p.m.

Chairman Hernandez and Commissioner Putko stated they agreed with the staff recommendation for denial.

Vice-Chairman Tinsley commented the applicant had alleviated some of his concerns. He felt the project would benefit the area by having a park and by alleviating traffic issues on Deep Creek Road.

Commissioner Allen stated there were a number of changes to the project and the transition between half (1/2)-acre lots and the larger lots is reasonable. Commissioner



*June 4, 2008 Planning Commission Meeting*

Allen commended the applicant on his changes and was in favor of the applicants marketing the property as lot sales.

Ms. Lamson, Assistant Director of Community Development, commented, if the Commission wished to approve the Item, then they would have to continue the Item to allow staff to time to bring back a Resolution in favor of the project.

**MOTION:**

Motion by Vice-Chairman Tinsley, seconded by Commissioner Allen, to continue this item to the February 6, 2008 Planning Commission meeting.

**Discussion on Motion:**

Mr. Henderson stated that, in the event of a tie vote, it would mean staff's recommendation for denial would be approved. He suggested clarification be made, as to whether or not there were three Commissioners in support of the project, not in support, or whether a straw vote would indicate a 2-2 tie vote that would uphold the staff recommendation for denial.

**ROLL CALL VOTE:**

Ayes:	Commissioner Allen Vice-Chairman Tinsley
Noes:	Commissioner Putko Chairman Hernandez
Abstain:	None
Absent:	Commissioner Kallen

**The motion failed by 2-2-0-1 and the project was denied**

Commissioner Kallen returned to the dais at 7:55 p.m