



Get a Slice of the Apple.

**TOWN OF APPLE VALLEY
PLANNING COMMISSION AGENDA
REGULAR MEETING
WEDNESDAY, DECEMBER 20, 2017 – 6:00 P.M.**

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

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

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

REGULAR MEETING

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

CALL TO ORDER

ROLL CALL

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

PLEDGE OF ALLEGIANCE

PUBLIC COMMENTS

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

APPROVAL OF MINUTES

1. Minutes for the regular meeting of November 1, 2017.

PUBLIC HEARING ITEMS

2. **Conditional Use Permit No. 2017-003.** The applicant proposes a request to approve a Conditional Use Permit to allow the construction of a fifty-seven (57)-foot high wireless telecommunication facility concealed within a church steeple. The site is 4.8 acres in size and located within the Equestrian Residential (R-EQ) zoning designation.
APPLICANT: Eukon Group for Verizon Wireless
LOCATION: 18628 Seneca Road; APN 0479-073-12
ENVIRONMENTAL DETERMINATION: The project is considered a minor alteration to an existing structure; therefore, pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA) Section 15303, the proposal is exempt from further environmental review.
CASE PLANNER: Ms. Pam Cupp, Associate Planner
RECOMMENDATION: Approval
3. **Conditional Use Permit No 2017-008.** A request for approval of a Conditional Use Permit to allow the operation of an eight (8)-bed, congregate living health facility. The project will include a 1,452-square foot addition to an existing 2,234 square foot single-family residence. The project site is one (1)-acre in size located within the Estate Residential (R-E) zoning designation.
APPLICANT: Oak Fence Senior, LLC
LOCATION: 20135 Oneida Road; APN 3112-201-16
ENVIRONMENTAL DETERMINATION: The project is a minor alteration to an existing private structure, and pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15301, Class 1, the proposal is Exempt from further environmental review.
CASE PLANNER: Pam Cupp, Associate Planner
RECOMMENDATION: Approval
4. **Development Code Amendment No 2017-001.** An amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code that will amend Chapters 9.28 "Residential Districts", 9.29 "Specific Use Regulations for Residential Districts" and 9.31 "Residential Design Standards" and 9.72 "Off-Street Parking Regulations" relating to multi-family residential development standards.
APPLICANT: Town of Apple Valley
LOCATION: Town-wide
ENVIRONMENTAL DETERMINATION: Staff has determined that the project is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State Guidelines to Implement CEQA, which states that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a

significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA.

CASE PLANNER: Carol Miller, Assistant Director of Community Development

RECOMMENDATION: Discuss and provide direction

4. **Development Code Amendment No 2017-003.** An amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code by amending Section 9.71.140 of Chapter 9.71 relating to the Town's acceptance of lien agreements as securities for subdivision improvement agreements.

APPLICANT: Town of Apple Valley

LOCATION: Town-wide

ENVIRONMENTAL

DETERMINATION: Staff has determined that the project is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State Guidelines to Implement CEQA, which states that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA.

CASE PLANNER: Richard Pedersen, Deputy Engineer

RECOMMENDATION: Adopt Planning Commission Resolution No. 2017-004.

PLANNING COMMISSION COMMENTS

STAFF COMMENTS

OTHER BUSINESS

ADJOURNMENT

The Planning Commission will adjourn to its next regularly scheduled Planning Commission meeting on January 17, 2018.

MINUTES

**TOWN OF APPLE VALLEY
PLANNING COMMISSION
REGULAR MEETING**

November 1, 2017

CALL TO ORDER

Chairman Shoup called to order the regular meeting of the Town of Apple Valley Planning Commission at 6:01 p.m.

Roll Call

Present: Commissioners Bruce Kallen; Doug Qualls; Vice-Chairman B. R. "Bob" Tinsley; Chairman Mark Shoup.

Absent: Commissioner Jason Lamoreaux

Staff Present

Carol Miller, Assistant Director of Community Development, Pam Cupp, Associate Planner, Thomas Rice, Town Attorney, Yvonne Rivera, Planning Commission Secretary.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Commissioner Qualls.

APPROVAL OF MINUTES

1. **Approval of Minutes**
 - a. Regular Meeting of October 18, 2017

MOTION

Motion by Vice-Chairman Tinsley, seconded by Commissioner Qualls, to approve the minutes for the meeting of October 18, 2017.

Vote: Motion carried 4-0-0-1

Yes: Commissioners Kallen; Qualls; Vice-Chairman Tinsley; Chairman Shoup.

Absent: Commissioner Lamoreaux

PUBLIC COMMENTS

None.

PUBLIC HEARINGS

2. **Tentative Tract Map No. 18619 Extension of Time No. 1** – A request for a three (3) year time extension for a previously approved subdivision that would serve as a financing and infrastructure master map within the Bridle Path Estates Specific Plan. Tentative Tract Map No. 18619 will subdivide approximately 400 gross acres of the total 664 gross acre site, into nine (9) separate legal residential lots for future individual tentative tract maps and one (1) lot for a future private park.

Applicant: Mr. Eric Flodine for Bridle Path Estates L.P.

Chairman Shoup opened the public hearing at 6:09 p.m.

Pam Cupp, Associate Planner, presented the staff report as filed with the Planning Division. She informed the Planning Commission, with the concurrence of the Town Attorney, that Agenda Items 2 through 11 would be presented concurrently.

Ms. Cupp stated that approval of Tentative Tract Maps 18619, 18351 through 18359, were reviewed by the Planning Commission on September 19, 2007; the expiration date for the maps was September 19, 2017. Staff's recommendation for a three (3) year time extension would extend the expiration date to September 19, 2020.

Bob Basen, Apple Valley, spoke in favor of the extension and respectfully requested that the Planning Commission move forward with approval.

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

Eric Flodine, Applicant, stated that he was in agreement with the Conditions of Approval.

There being no additional requests to speak, Chairman Shoup closed the public hearing at 6:09 p.m.

MOTION

Motion by Vice-Chairman Tinsley, seconded by Commissioner Kallen to:

1. Determine that, there is no new substantial change in the project or new information that would result in new, significant environmental impacts beyond those identified within the Mitigated Negative Declaration that was prepared for the Bridle Path Estates Specific Plan, and adopted on October 10, 2006 by the Town Council. Therefore, pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15162, the proposed request is not subject to further environmental review.
2. Find the facts presented in the staff report support the required Findings for approval and adopt the Findings.
3. Approve a three (3) year extension of time for Tentative Tract Map No. 18619, subject to the attached Conditions of Approval, as amended.
4. Direct Staff to file the Notice of Determination.

Vote: Motion carried 4-0-0-1

Yes: Commissioners Kallen; Qualls; Vice-Chairman Tinsley; Chairman Shoup.

Absent: Commissioner Lamoreaux

- 3. Tentative Tract Map No.18351 Extension of Time No. 1.** A request for a three (3) year time extension for a previously approved subdivision of approximately thirty-one (31) gross acres into thirty-four (34) single-family residential lots within the Equestrian Residential (R-EQ) land use designation of the Bridle Path Estates Specific Plan for future single-family residential development.

Applicant: Mr. Eric Flodine for Bridle Path Estates L.P.

MOTION

Motion by Vice-Chairman Tinsley, seconded by Commissioner Kallen to:

1. Determine that, there is no new substantial change in the project or new information that would result in new, significant environmental impacts beyond those identified within the Mitigated Negative Declaration that was prepared for the Bridle Path Estates Specific Plan, and adopted on October 10, 2006 by the Town Council. Therefore, pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15162, the proposed request is not subject to further environmental review.
2. Find that the facts presented in the staff report support the required Findings for approval and adopt the Findings.
3. Approve a three (3) year extension of time for Tentative Tract Map No. 18351, subject to the attached Conditions of Approval, as amended.
4. Direct staff to file a Notice of Determination.

Vote: Motion carried 4-0-0-1

Yes: Commissioners Kallen; Qualls; Vice-Chairman Tinsley; Chairman Shoup.

Absent: Commissioner Lamoreaux

- 4. Tentative Tract Map No.18352 Extension of Time No. 1.** A request for a three (3) year time extension for a previously approved subdivision of approximately forty-four (44) gross acres into sixty-eight (68) single-family residential lots within the Single Family Residential (R-SF) land use designation of the Bridle Path Estates Specific Plan for future single-family residential development.

Applicant: Mr. Eric Flodine for Bridle Path Estates L.P.

MOTION

Motion by Vice-Chairman Tinsley, seconded by Commissioner Kallen to:

1. Determine that, there is no new substantial change in the project or new information that would result in new, significant environmental impacts beyond those identified within the Mitigated Negative Declaration that was prepared for the Bridle Path Estates Specific Plan, and adopted on October 10, 2006 by the Town Council. Therefore, pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15162, the proposed request is not subject to further environmental review.

2. Find that the facts presented in the staff report support the required Findings for approval and adopt the Findings.
3. Approve a three (3) year extension of time for Tentative Tract Map No. 18352, subject to the attached Conditions of Approval, as amended.
4. Direct staff to file a Notice of Determination.

Vote: Motion carried 4-0-0-1

Yes: Commissioners Kallen; Qualls; Vice-Chairman Tinsley; Chairman Shoup.

Absent: Commissioner Lamoreaux

5. **Tentative Tract Map No.18353 Extension of Time No. 1.** A request for a three (3) year time extension for a previously approved subdivision of approximately thirty-nine (39) gross acres into twenty-seven (27) single-family residential lots within the Single Family Residential (R-SF) and Open Space Conservation (OS-C) land use designation of the Bridle Path Estates Specific Plan for future single-family residential development.

Applicant: Mr. Eric Flodine for Bridle Path Estates L.P.

MOTION

Motion by Vice-Chairman Tinsley, seconded by Commissioner Kallen to:

1. Determine that, there is no new substantial change in the project or new information that would result in new, significant environmental impacts beyond those identified within the Mitigated Negative Declaration that was prepared for the Bridle Path Estates Specific Plan, and adopted on October 10, 2006 by the Town Council. Therefore, pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15162, the proposed request is not subject to further environmental review.
2. Find that the facts presented in the staff report support the required Findings for approval and adopt the Findings.
3. Approve a three (3) year extension of time for Tentative Tract Map No. 18353, subject to the attached Conditions of Approval, as amended.
4. Direct staff to file a Notice of Determination.

Vote: Motion carried 4-0-0-1

Yes: Commissioners Kallen; Qualls; Vice-Chairman Tinsley; Chairman Shoup.

Absent: Commissioner Lamoreaux

6. **Tentative Tract Map No.18354 Extension of Time No. 1.** A request for a three (3) year time extension for a previously approved subdivision of approximately thirty (30) gross acres into twenty-one (21) single-family residential lots within the Single Family Residential (R-SF) and Open Space Conservation (OS-C) land use designation of the Bridle Path Estates Specific Plan for future single-family residential development.

Applicant: Mr. Eric Flodine for Bridle Path Estates L.P.

MOTION

Motion by Vice-Chairman Tinsley, seconded by Commissioner Kallen to:

1. Determine that, there is no new substantial change in the project or new information that would result in new, significant environmental impacts beyond those identified within the Mitigated Negative Declaration that was prepared for the Bridle Path Estates Specific Plan, and adopted on October 10, 2006 by the Town Council. Therefore, pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15162, the proposed request is not subject to further environmental review.
2. Find that the facts presented in the staff report support the required Findings for approval and adopt the Findings.
3. Approve a three (3) year extension of time for Tentative Tract Map No. 18354, subject to the attached Conditions of Approval, as amended.
4. Direct staff to file a Notice of Determination.

Vote: Motion carried 4-0-0-1

Yes: Commissioners Kallen; Qualls; Vice-Chairman Tinsley; Chairman Shoup.

Absent: Commissioner Lamoreaux

7. **Tentative Tract Map No.18355 Extension of Time No. 1.** A request for a three (3) year time extension for a previously approved subdivision of approximately thirty-eight (38) gross acres into thirty-four (34) single-family residential lots within the Equestrian Residential (R-EQ) and Open Space Conservation (OS-C) land use designation of the Bridle Path Estates Specific Plan for future single-family residential development.

Applicant: Mr. Eric Flodine for Bridle Path Estates L.P.

MOTION

Motion by Vice-Chairman Tinsley, seconded by Commissioner Kallen to:

1. Determine that, there is no new substantial change in the project or new information that would result in new, significant environmental impacts beyond those identified within the Mitigated Negative Declaration that was prepared for the Bridle Path Estates Specific Plan, and adopted on October 10, 2006 by the Town Council. Therefore, pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15162, the proposed request is not subject to further environmental review.
2. Find that the facts presented in the staff report support the required Findings for approval and adopt the Findings.
3. Approve a three (3) year extension of time for Tentative Tract Map No. 18355, subject to the attached Conditions of Approval, as amended.
4. Direct staff to file a Notice of Determination.

Vote: Motion carried 4-0-0-1

Yes: Commissioners Kallen; Qualls; Vice-Chairman Tinsley; Chairman Shoup.

Absent: Commissioner Lamoreaux

- 8. Tentative Tract Map No.18356 Extension of Time No. 1.** A request for a three (3) year time extension for a previously approved subdivision of approximately twenty-eight (28) gross acres into forty-six (46) single-family residential lots within the Single Family Residential (R-SF) land use designation of the Bridle Path Estates Specific Plan for future single-family residential development.

Applicant: Mr. Eric Flodine for Bridle Path Estates L.P.

MOTION

Motion by Vice-Chairman Tinsley, seconded by Commissioner Kallen to:

1. Determine that, there is no new substantial change in the project or new information that would result in new, significant environmental impacts beyond those identified within the Mitigated Negative Declaration that was prepared for the Bridle Path Estates Specific Plan, and adopted on October 10, 2006 by the Town Council. Therefore, pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15162, the proposed request is not subject to further environmental review.
2. Find that the facts presented in the staff report support the required Findings for approval and adopt the Findings.
3. Approve a three (3) year extension of time for Tentative Tract Map No. 18356, subject to the attached Conditions of Approval, as amended.
4. Direct staff to file a Notice of Determination.

Vote: Motion carried 4-0-0-1

Yes: Commissioners Kallen; Qualls; Vice-Chairman Tinsley; Chairman Shoup.

Absent: Commissioner Lamoreaux

- 9. Tentative Tract Map No.18357 Extension of Time No. 1.** A request for a three (3) year time extension for a previously approved subdivision of approximately forty-seven (47) gross acres into eighty-two (82) single-family residential lots within the Single Family Residential (R-SF) land use designation of the Bridle Path Estates Specific Plan for future single-family residential development.

Applicant: Mr. Eric Flodine for Bridle Path Estates L.P.

MOTION

Motion by Vice-Chairman Tinsley, seconded by Commissioner Kallen to:

1. Determine that, there is no new substantial change in the project or new information that would result in new, significant environmental impacts beyond those identified within the Mitigated Negative Declaration that was prepared for the Bridle Path Estates Specific Plan, and adopted on October 10, 2006 by the Town Council. Therefore, pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15162, the proposed request is not subject to further environmental review.
2. Find that the facts presented in the staff report support the required Findings for approval and adopt the Findings.
3. Approve a three (3) year extension of time for Tentative Tract Map No. 18357, subject to the attached Conditions of Approval, as amended.

4. Direct staff to file a Notice of Determination.

Vote: Motion carried 4-0-0-1

Yes: Commissioners Kallen; Qualls; Vice-Chairman Tinsley; Chairman Shoup.

Absent: Commissioner Lamoreaux

10. **Tentative Tract Map No.18358 Extension of Time No. 1.** A request for a three (3) year time extension for a previously approved subdivision of approximately forty-one (41) gross acres into fifty-seven (57) single-family residential lots within the Single Family Residential (R-SF) land use designation of the Bridle Path Estates Specific Plan for future single-family residential development.

Applicant: Mr. Eric Flodine for Bridle Path Estates L.P.

MOTION

Motion by Vice-Chairman Tinsley, seconded by Commissioner Kallen to:

1. Determine that, there is no new substantial change in the project or new information that would result in new, significant environmental impacts beyond those identified within the Mitigated Negative Declaration that was prepared for the Bridle Path Estates Specific Plan, and adopted on October 10, 2006 by the Town Council. Therefore, pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15162, the proposed request is not subject to further environmental review.
2. Find that the facts presented in the staff report support the required Findings for approval and adopt the Findings.
3. Approve a three (3) year extension of time for Tentative Tract Map No. 18358, subject to the attached Conditions of Approval, as amended.
4. Direct staff to file a Notice of Determination.

Vote: Motion carried 4-0-0-1

Yes: Commissioners Kallen; Qualls; Vice-Chairman Tinsley; Chairman Shoup.

Absent: Commissioner Lamoreaux

11. **Tentative Tract Map No.18359 Extension of Time No. 1.** A request for a three (3) year time extension for a previously approved subdivision of approximately thirty-seven (37) gross acres into fifteen (15) single-family residential lots within the Equestrian Residential (R-EQ) and Open Space Conservation (OS-C) and land use designation of the Bridle Path Estates Specific Plan for future single-family residential development.

Applicant: Mr. Eric Flodine for Bridle Path Estates L.P.

MOTION

Motion by Vice-Chairman Tinsley, seconded by Commissioner Kallen to:

1. Determine that, there is no new substantial change in the project or new information that would result in new, significant environmental impacts beyond those identified within the Mitigated Negative Declaration that was prepared for the Bridle Path Estates Specific Plan, and adopted on October 10, 2006 by the Town Council. Therefore, pursuant to the California Environmental

Quality Act (CEQA) Guidelines Section 15162, the proposed request is not subject to further environmental review.

2. Find that the facts presented in the staff report support the required Findings for approval and adopt the Findings.
3. Approve a three (3) year extension of time for Tentative Tract Map No. 18359, subject to the attached Conditions of Approval, as amended.
4. Direct staff to file a Notice of Determination.

Vote: Motion carried 4-0-0-1

Yes: Commissioners Kallen; Qualls; Vice-Chairman Tinsley; Chairman Shoup.

Absent: Commissioner Lamoreaux

- 12. General Plan Amendment No. 2017-002 and Zone Change No. 2017.** A request to consider a change in land use designation from Medium Density Residential (R-M) to Single Family Residential (R-SF). Zone Change No. 2017-002 is a request to consider a modification of the zoning designation from Multi-Family Residential (R-M) to Single-Family Residential (R-SF).

Applicant: Town of Apple Valley

Chairman Shoup opened the public hearing at 6:12 p.m.

Pam Cupp, Associate Planner, presented the staff report as filed with the Planning Division. She provided the Planning Commission with a brief overview of the requirements for properties within the Multi-Family Residential (R-M) zoning. She noted that several areas within the Multi-Family Residential (R-M) zoning do not have sewer available.

Ms. Cupp informed the Planning Commission that staff received one letter of opposition, which was hand-delivered by Lou Viera and provided to the Commission for consideration. She noted that Mr. Viera's property is already highlighted in the report as being in opposition.

Discussion ensued regarding possible alternatives to the seventy-five (75) percent rule, as well as consideration of exempting a total of four (4) lots from the proposed zone change. Also discussed were the options available to the property owners that may want to opt out of the proposed zone change.

Thomas Rice, Town Attorney, responded to comments by the Planning Commission regarding the project. He reminded the Commission of the need to take into consideration the findings during discussions related to the project.

Mr. Rice read into the record Section 3 of the Findings as follows:

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.

Ms. Cupp announced that staff is available to meet with members of the public that may have questions regarding their lots. She also answered questions by the Planning Commission regarding the seventy-five (75) percent rule noting that the code exempts Single-Family Residential from this requirement.

Chairman Shoup expressed concern that this requirement may not be encouraging to owners who may wish to rebuild following a natural disaster or any other calamity.

Ms. Cupp answered questions by the Planning Commission regarding whether the Town Council has the authority to change the seventy-five (75) percent rule. She also discussed the requirement for sewer connection for multi-family units.

The Planning Commission discussed sending a recommendation to the Town Council to waive the seventy-five (75) percent rule. They also questioned the methods used to come up with the various proposals for the zone change.

Mr. Rice explained that sending a recommendation to the Town Council to add an exception to the non-conforming use restriction could cause a delay in the project moving forward if the Town Council recommended the item be brought back for further discussion.

Bob Basen, Apple Valley, expressed concern regarding the seventy-five (75) percent rule. He also commented on issues with financing due to the need to modify insurance coverage from multi-family unit to single family residential. He believed that exempting the existing multi-family units from the seventy-five (75) percent rule would be the best resolution for the owners.

Lou Viera, Apple Valley, spoke in opposition of the proposed zone change. He commented on the financial burdens he would experience by having his property deemed as non-conforming. He respectfully requested that the Commission amend the division in the development code to exclude his apartment complex from the new zoning.

David Haig, Apple Valley, expressed concern regarding the proposed zoning designation. He stated that he purchased a three (3)-unit complex with the understanding that it was zoned for up to eight (8) units. He considered the seventy-five (75) percent rule and sewer connection requirements to be discrepancies.

Bess Kline, Broker, spoke on behalf of a client who purchased several properties within the Town. She indicated that her client would like to build additional units but is not able to because of the cost to connect to sewer.

Jamie Tomes, Apple Valley, spoke in favor of the zone change. She explained that she and her husband own property that would otherwise sit indefinitely as a vacant lot due to the expense of the sewer.

Frank Fentin, Apple Valley, asked if the proposed project would affect his property located on Lakota Road. He also requested clarification regarding zoning for a multi-family unit with individual addresses, and whether the unit would need to comply with the sewer requirement.

There being no further requests to speak, Chairman Shoup closed the public hearing at 7:05 p.m.

A lengthy discussion ensued regarding possible alternatives to the seventy-five (75) percent rule, including amending the zoning designation so that all properties conform with the zoning.

It was the consensus of the Planning Commission to move staff's recommendation with a condition that the development code amendment be proposed that provides an exemption for

non-conforming use, which includes the seventy-five (75) percent restriction for duplexes to four-plexes within the single-family zone for reconstruction.

Mr. Rice clarified, for the benefit of the public, that the motion proposed, as amended, would apply Town-wide.

MOTION

Motion by Commissioner Qualls, seconded by Vice-Chairman Tinsley, that the Planning Commission move to continue the Public Hearing to a date certain to January 17, 2018, and make a recommendation to the Town Council to initiate a development code amendment that provides an exemption for non-conforming use, which includes the seventy-five (75) percent restriction for duplexes to four-plexes within the single-family zone for reconstruction.

Vote: Motion carried 4-0-0-1

Yes: Commissioners Kallen; Qualls; Vice-Chairman Tinsley; Chairman Shoup.

Absent: Commissioner Lamoreaux

OTHER BUSINESS

None.

PLANNING COMMISSION COMMENTS

Chairman Shoup commented on the passing of former Council Member and Mayor Richard "Dick" Pearson, and spoke of his contribution to the community. He respectfully requested that the meeting be adjourned in his honor.

STAFF COMMENTS

None.

ADJOURNMENT

Motion by Commissioner Qualls, seconded by Vice-Chairman Tinsley, and unanimously carried, to adjourn the meeting of the Planning Commission at 6:32 p.m. to its next regularly scheduled meeting on November 15, 2017, in memory of former Council Member and Mayor Richard "Dick" Pearson.

Respectfully Submitted by:

Yvonne Rivera
Planning Commission Secretary

Approved by:

Chairman Mark Shoup



TOWN OF APPLE VALLEY PLANNING COMMISSION

Get a Slice of the Apple.

Staff Report

- AGENDA DATE:** December 20, 2017
- CASE NUMBER:** Conditional Use Permit No. 2017-003
- APPLICANT:** Eukon Group for Verizon Wireless
- PROPOSAL:** A request to approve a Conditional Use Permit to allow the construction of a fifty-seven (57)-foot high wireless telecommunication facility concealed within a church steeple. The site is 4.8 acres in size and located within the Equestrian Residential (R-EQ) zoning designation.
- LOCATION:** 18628 Seneca Road; APN 0479-073-12
- ENVIRONMENTAL DETERMINATION:** The project is considered a minor alteration to an existing structure; therefore, pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA) Section 15303, the proposal is exempt from further environmental review.
- CASE PLANNER:** Pam Cupp, Associate Planner
- RECOMMENDATION:** Approval

PROJECT AND SITE DESCRIPTION:

- A. Project Size:
The property is 4.8 acres in size.
- B. General Plan Designations:
- Site - Single Family Residential (R-SF)
 - North - Single Family Residential (R-SF)
 - South - Single Family Residential (R-SF)
 - East - Single Family Residential (R-SF)
 - West - Single Family Residential (R-SF)

C. Surrounding Zoning and Land Use:

- Site - Equestrian Residential (R-EQ), Church
- North - Equestrian Residential (R-EQ), Vacant
- South - Equestrian Residential (R-EQ), Single Family Residence
- East - Equestrian Residential (R-EQ), Single Family Residence
- West - Equestrian Residential (R-EQ), Single Family Residence and Water Well Site

D. Building Analysis:

Church Steeple and Equipment Shelter	234 sq. ft.
Church	19,340 sq. ft.
Total Building Area	19,374 sq. ft.

E. Height:

Permitted Maximum:	75 ft. (within preferred location)
Proposed Maximum:	57 ft. (incl. architectural elements)

F. Parking Analysis:

Total Parking Required:	1 Space
Parking Provided:	130 Spaces

G. Setback Analysis:

Antenna	Required	Proposed
From Adjoining Property Line		
Front - South	30 ft.	306 ft.
Rear - North	21.5 ft.	318 ft.
Side - East	21.5 ft.	232 ft.
Side - West	21.5 ft.	112 ft.

H. Separation Analysis:

Tower	Required	Proposed
To SFR	0 ft.	112 ft.
To Existing Tower	0 ft.	7,000 ft.

ANALYSIS:

A. General:

Pursuant to the Development Code, a Conditional Use Permit is required for all new telecommunication towers to afford the Commission the opportunity to review the architecture and aesthetics of any proposed structure. The applicant is requesting Planning Commission review and approval to construct a fifty-seven (57)-foot high unmanned wireless antenna completely concealed within a church steeple.

B. Site Analysis:

The project site is 4.6 gross acres in size and contains a church campus consisting of two (2) buildings with a combined floor area of 19,340 square feet. The Development Code Section 9.77.180 "Preferred Locations" identifies any church as the sole occupant of a site at least three (3) acres in size as a preferred location.

The Code states that wireless facilities placed on, or within, a preferred site shall be located in a manner so that the main structure is located between the facility and the main public right-of-way serving the site. The proposed church steeple will be constructed at the northwest corner (rear) of the sanctuary building and will have two (2) structures separating the wireless facility from the public right-of-way. The church steeple and equipment shelter will be setback 306 feet from Seneca Road.

The separation requirement for the antenna and any residential use or designation is a minimum of 1,000 feet. The Code further requires a minimum of 1,500 feet separation to an existing antenna. However, if the antenna is located within a "preferred location", or completely concealed, the separation requirement does not apply.

The setback requirement applicable to all antennas is seventy-five (75) percent of the height of the antenna from any adjacent property line. When located on a preferred location, the setback may be reduced up to fifty (50) percent. For a fifty-seven (57)-foot high structure the minimum setback requirement is approximately twenty-one and one-half (21.5) feet. The antenna will be constructed 112 feet from the closest (western) property line and over 200 feet to the remaining property lines, which meets the setback requirements as identified in the Code.

This project requires one (1) parking space for a maintenance vehicle from time to time for repairs and meter reading. The church facility is required to provide a minimum of 128 parking spaces with 130 spaces provided. With the additional requirement of one (1) space, the total number of parking spaces required for the site is 129 spaces.

The Development Code requires a minimum four (4)-foot wide landscape strip with an automatic sprinkler system around the perimeter of the equipment compound. The plan will include a four (4)-foot wide landscape buffer to the east and west of the enclosure. The south side of the equipment enclosure will be flush to the sanctuary building and an existing sidewalk located to the north. Also to the north is the access gate to the enclosure. The approved site plan for the church includes a six (6)-foot high masonry wall along the east and west boundaries of the project site.

The applicant has indicated that the site will accommodate co-location of additional antennas. The proposed site plan identifies equipment shelter locations for two (2) additional wireless carriers.

C. Architecture Analysis:

The Development Code requires that all telecommunication facilities be designed and constructed to be stealth/camouflaged. The applicant is proposing to construct a wireless telecommunications facility that will architecturally blend with the existing structures located on the church campus. The design selected is that of a church steeple with stucco and roofing to match the architecture of the buildings on-site.

The steeple addition will have an exterior dimension of ten (10) feet by ten (10) feet and will be positioned within the equipment shelter located to the rear of the sanctuary building. The steeple will be six (6) feet from the existing structure; however, the equipment shelter will be flush with the building. The maximum permitted height for a wireless antenna within a preferred location is seventy-five (75) feet. Although the antenna will have maximum height of fifty-four (54) feet, the pitched roof on the top of the steeple creates an overall height of fifty-seven (57) feet. The maximum height of the sanctuary building adjacent to

the wireless tower and equipment is twenty-five (25) feet. The proposed steeple will be twenty-seven (27) feet taller than the church building. Should the Town receive a request for co-location at this site and a request for additional height as potentially allowed by Federal Law, the church tower design would no longer appear as a part of the church due to the disproportionate heights between structures. Such a change would then defeat the concealment element of the facility and could be considered a “substantial change” under Section 6409(a). However, additional carriers could be approved administratively without the benefit of additional height.

E. Licensing & Future Reviews:

Wireless telecommunication proposals are governed by regulations of the Federal Communications Commission (FCC) and are required to transmit signals on frequencies that will not interfere with other electronic equipment (e.g., fire, police, emergency radio frequencies, etc.). The Telecommunications Act of 1996 determined that electromagnetic fields associated with wireless telecommunication facilities do not pose a health risk and are required to conform with the standards established by the American National Standard Institute (ANSI) for safe human exposure to electromagnetic fields and radio frequencies.

F. Environmental Assessment:

The project is considered a minor alteration to an existing structure; therefore, pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA) Section 15303, the proposal is exempt from further environmental review.

G. Noticing:

The project was legally noticed in the Apple Valley News on December 8, 2017. Staff notified all property owners within 1,500 feet of the site for this public hearing.

H. Conditional Use Permit Findings:

As required under Section 9.16.090 of the Development Code, prior to approval of a Conditional Use Permit, the Planning Commission must make the following Findings:

1. That the proposed location, size, design and operating characteristics of the proposed use is consistent with the General Plan, the purpose of this Code, the purpose of the zoning district in which the site is located, and the development policies and standards of the Town;

Comment: The proposed construction of a fifty-seven (57)-foot high church steeple designed wireless telecommunications facility will be in compliance with the Telecommunications Ordinance of the Development Code of the Town of Apple Valley, and the adopted General Plan, upon the review and approval of a Conditional Use Permit by the Planning Commission.

2. That the location, size, design and operating characteristics of the proposed use will be compatible with and will not adversely affect nor be materially detrimental to adjacent uses, residents, buildings, structures or natural resources;

Comment: The antenna will be completely concealed within a church steeple and will be compatible with the site and adjacent uses, so as not to be easily recognized as an antenna. There are existing improvements to serve the proposed site, and the proposed

installation of the telecommunications facility, with recommended Conditions of Approval, is permitted, subject to approval of a Conditional Use Permit.

3. That the proposed use is compatible in scale, bulk, lot coverage, and density with adjacent uses;

Comment: The proposed antenna is a compatible use because the site will be designed with adequate parking and access points, and is not anticipated to generate excessive noise, vibration, traffic or other disturbances.

4. That there are public facilities, services and utilities available at the appropriate levels, or that these will be installed at the appropriate time, to serve the project as they are needed;

Comment: There are existing improvements and utilities to serve the use requested at the proposed site.

5. That there will not be a harmful effect upon desirable neighborhood characteristics;

Comment: The location, size, design (with aesthetics approved by the Planning Commission) and operating characteristics of the proposed telecommunications facility, and the conditions under which will be operated and maintained, will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity.

6. That the generation of traffic will not adversely impact the capacity and physical character of surrounding streets;

Comment: The proposed unmanned wireless telecommunication facility is not anticipated to generate additional traffic. In addition, the proposed project must adhere to the Conditions of Approval required in the Conditional Use Permit.

7. That traffic improvements and/or mitigation measures are provided in a manner adequate to maintain the existing service level or a Level of Service (LOS) C or better on arterial roads and are consistent with the Circulation Element of the General Plan;

Comment: Traffic generated from the project will not adversely impact the surrounding area. The proposed unmanned wireless telecommunication facility will be located within a developed site with adequate internal circulation and parking which can accommodate minimal traffic generated from the use proposed at this project site.

8. That there will not be significant harmful effects upon environmental quality and natural resources;

Comment: Under the State guidelines to implement the California Environmental Quality Act (CEQA), the project is not anticipated to have any direct or indirect impact upon the environment.

9. That there are no other relevant negative impacts of the proposed use that cannot be reasonably mitigated;

Comment: Under the State guidelines to implement the California Environmental Quality Act (CEQA), the project is not anticipated to have any direct or indirect impact upon the environment.

10. That the impacts, as described in paragraphs 1 through 9 above, and the proposed location, size, design and operating characteristics of the proposed use and the conditions under which it would be maintained will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity, nor be contrary to the adopted General Plan;

Comment: The location, size, design (with aesthetics approved by the Planning Commission) and operating characteristics of the proposed facility, and the recommended conditions under which it will be operated and maintained, will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity. The project is required to provide FCC (Federal Communications Commission) licensing which regulates electromagnetic fields and radio frequencies.

11. That the proposed conditional use will comply with all of the applicable provisions of this title;

Comment: The proposed telecommunications facility can be built in conformance to the Development Code, subject to approval of a Conditional Use Permit and adherence to the recommended Conditions of Approval.

12. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures;

Comment: The materials, textures and details of the proposed steeple will match the existing sanctuary building and equipment shelter will match existing structures on the site.

13. That the development proposal does not unnecessarily block public views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use;

Comment: This proposal is for a concealed within a ten (10)-foot by ten (10)-foot steeple as a stealth design and will be compatible with the site and adjacent uses, so as not to be recognized as an antenna.

14. That quality in architectural design is maintained in order to enhance the visual environment of the Town and to protect the economic value of existing structures;

Comment: This proposal is for a wireless telecommunications facility entirely concealed within a church steeple. Design elements have been incorporated to match those of the existing buildings on the site. As designed, the proposal will be compatible with the site and adjacent uses, so as not to be recognized as an antenna.

15. That access to the site and circulation on- and off-site is safe and convenient for pedestrians, bicyclists, equestrians and motorists.

Comment: The wireless telecommunications facility will be unmanned. This proposal will not affect the present circulation conditions on the project site.

RECOMMENDATION:

Based upon the information contained within this report, the attached Initial Study, and any input received from the public at the hearing, it is recommended that the Planning Commission move to:

1. Find that pursuant to the California environmental Quality Act (CEQA), Section 15303, Class 3, the proposed request is Exempt from further environmental review.
2. Find the Facts presented in the staff report support the required Findings for approval and adopt the Findings for Conditional Use Permit No. 2017-003.
3. Approve Conditional Use Permit No. 2017-003, subject to the attached Conditions of Approval.
4. Direct Staff to file the Notice of Exemption.

Prepared By:

Reviewed By:

Pam Cupp
Associate Planner

Carol Miller
Assistant Director of Community Development

ATTACHMENTS:

1. Recommended Conditions of Approval
2. Site Plan
3. Elevations
4. Photo Simulation
5. Coverage Map
6. Zoning Map

TOWN OF APPLE VALLEY

RECOMMENDED CONDITIONS OF APPROVAL

Case No. Conditional Use Permit No. 2017-003

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 project shall comply with the provisions of State law and the Town of Apple Valley Development Code and the General Plan. This conditional approval to approve a specific use of land, if not established in conformance to any conditions applied, shall become void three (3) years from the date of action of the reviewing authority, unless otherwise extended pursuant to the provisions of application of State law and local ordinance. The extension application must be filed, and the appropriate fees paid, at least 60 days prior to the void date. The Conditional Use Permit becomes effective 10 days from the date of the decision unless an appeal is filed as stated in the Town's Development Code, Section 9.03.0180.
- P2. The applicant agrees to defend at its sole expense (with attorneys approved by the Town), hold harmless and indemnify the Town, its agents, officers and employees, against any action brought against the Town, its agents, officers or employees concerning the approval of this project or the implementation or performance thereof, and from 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 in the defense of any such action, but such participation shall not relieve the applicant of this obligation under this condition.
- P3. The applicant recognizes the approval of Conditional Use Permit No. 2017-003 by the Planning Commission as acknowledgment of Conditions of Approval, unless an appeal is filed in accordance with Section 9.12.250, *Appeals*, of the Town of Apple Valley Development Code.
- P4. The rendering(s) presented to, and approved by, the Planning Commission at the public hearing shall be the anticipated and expected appearance of the structure upon completion.
- P5. It is the sole responsibility of the applicant on any Permit, or other appropriate discretionary review application for any structure, to submit plans, specifications and/or illustrations with the application that will fully and accurately represent and portray the structures, facilities and appurtenances thereto that are to be installed or erected if approved by the Commission. Any such plans, specifications and/or illustrations that are reviewed and approved by the Planning Commission at an advertised public hearing shall accurately reflect the structures, facilities and appurtenances expected and required to be installed at the approved location without substantive deviations, modifications, alterations, adjustments or revisions of any nature.

- P6. The Director or his/her designee, shall have the authority for minor architectural changes focusing around items such as window treatments, color combinations, façade treatments, and architectural relief.
- P7. The applicant shall supply verification with the American National Standards Institute (ANSI) by providing a copy of its FCC license agreement prior to issuance of Certificate of Occupancy.
- P8. In the event the antenna(s) becomes obsolete and/or abandoned, the provider shall remove the antenna(s) and all related mechanical equipment and return the site to its original state, or an improved state, within thirty (30) days of abandonment.
- P9. The color scheme for the tower shall incorporate matching primary colors and materials of the church.
- P10. The access gates to the equipment enclosure shall be constructed of wrought iron and may include a metal mesh backing.
- P11. The approval is conditioned on the express findings of the Planning Commission that the height of the tower and size of the base station, as proposed, are designed to be proportionate in size and scale to the church, along with the design, color and features of the structure, and are an integral part of the concealment elements of the tower and base station.

Building and Safety Division Conditions of Approval

- BC1. Submit plans, engineering and obtain permits for all structures and retaining walls, signs.
- BC2. A dust palliative or hydro seed will be required on those portions of the site graded but not constructed (phased construction)
- BC3. Page two (2) of the submitted building plans will be conditions of approval.
- BC4. All utilities are required to be placed underground in compliance with Town Ordinance No. 89.
- BC5. Construction must comply with 2016, or current, California Building Codes and California Green Building Code.
- BC6. Best Management Practices (BMPs) are required for the site during construction.

Apple Valley Fire Protection District

- 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. All new construction shall comply with applicable sections of the California Fire Code, California Building Code, and other statutes, ordinances, rules, and regulations regarding fires and fire prevention adopted by the State, County, or Apple Valley Fire Protection District.

- FD3. All combustible vegetation, such as dead shrubbery and dry grasses, shall be removed from each building site a minimum distance of thirty (30) feet from any combustible building material, including the finished structure. This does not apply to single specimens of trees, ornamental shrubbery, or similar plants, which are used as ground cover if they do not form a means of transmitting fire. California Public Resources Code, Sec. 4291
- FD4. Provide an N.F.P.A. 704 Placard identifying the Hazardous Materials for the batteries.
- FD5. Provide (1) 2A10BC minimum rating fire extinguisher and serviced by a certified company.

End of Conditions

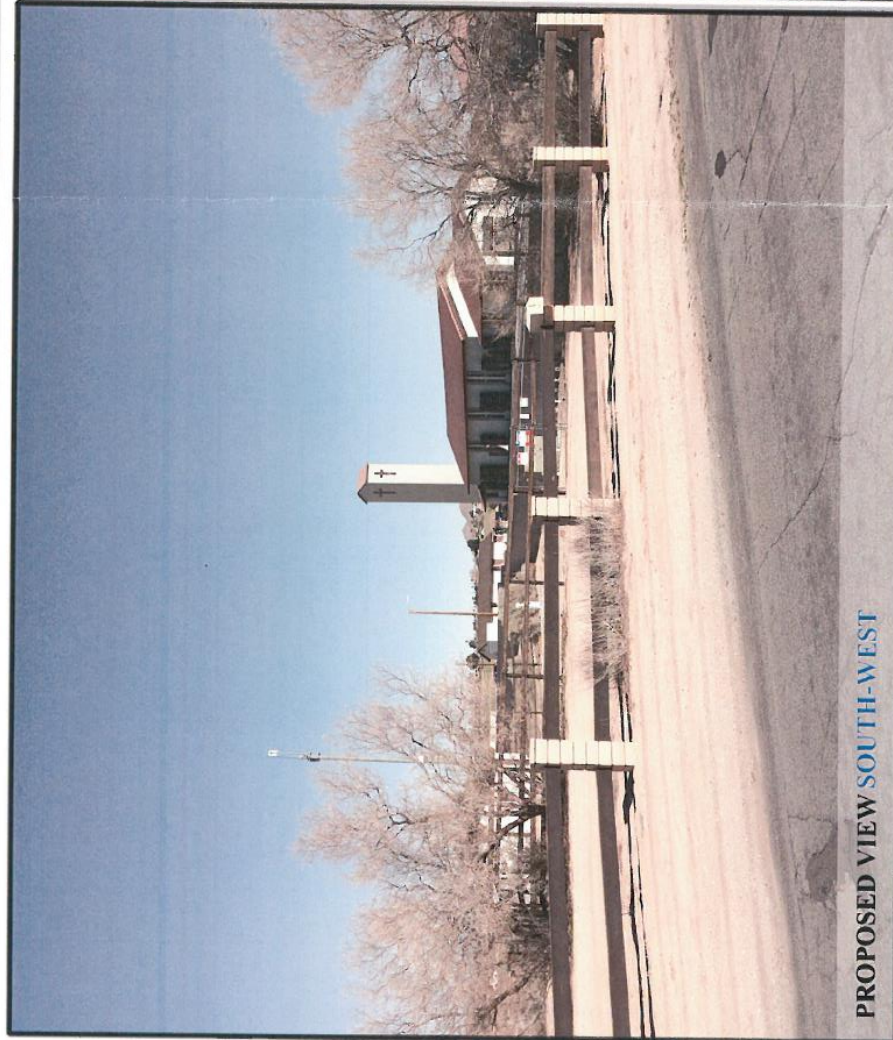


Tomahawk

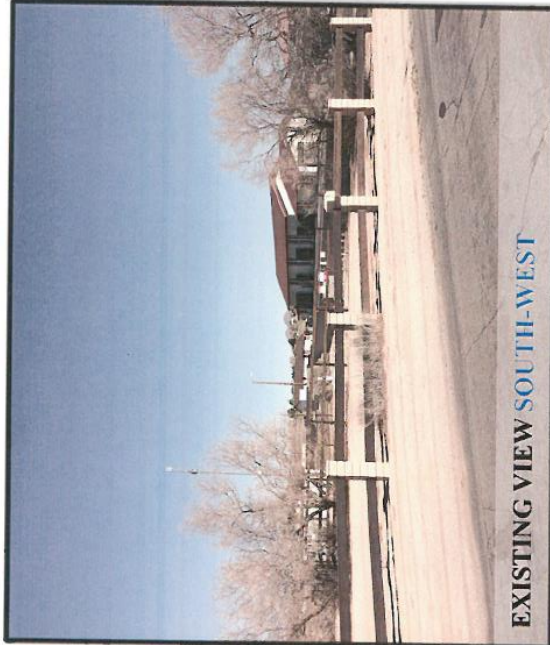
18628 Seneca Rd., Apple Valley, CA 92307



Eukon Group
65 Post, Suite 1000 - Irvine,
CA, 92618 - (949) 553-8566



PROPOSED VIEW SOUTH-WEST



EXISTING VIEW SOUTH-WEST



SITE LOCATION

SITE COORDINATES

Latitude: 34° 30' 56.58"
Longitude: -117° 15' 27.5"

APPLICANT

Verizon Wireless
15805 Sand Canyon Ave.
Building "D", First Floor,
Irvine, CA 92618



SHEET NUMBER



Tomahawk

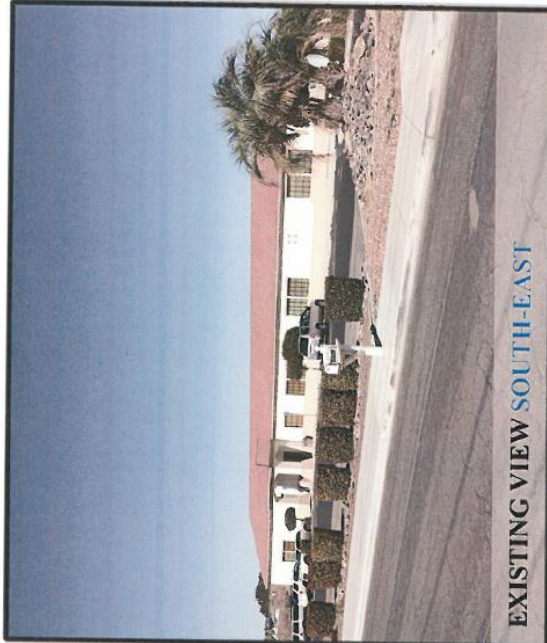
18628 Seneca Rd., Apple Valley, CA 92307



Eukon Group
65 Post, Suite 1000 - Irvine,
CA, 92618 - (949) 553-8566



PROPOSED VIEW SOUTH-EAST



EXISTING VIEW SOUTH-EAST



SITE LOCATION

SITE COORDINATES

Latitude: 34° 30' 56.58"
Longitude: -117° 15' 27.5"

APPLICANT

Verizon Wireless
15545 Sand Canyon Ave.
Building "D", First Floor,
Irvine, CA 92618



SHEET NUMBER

Figure 2 – Existing Coverage

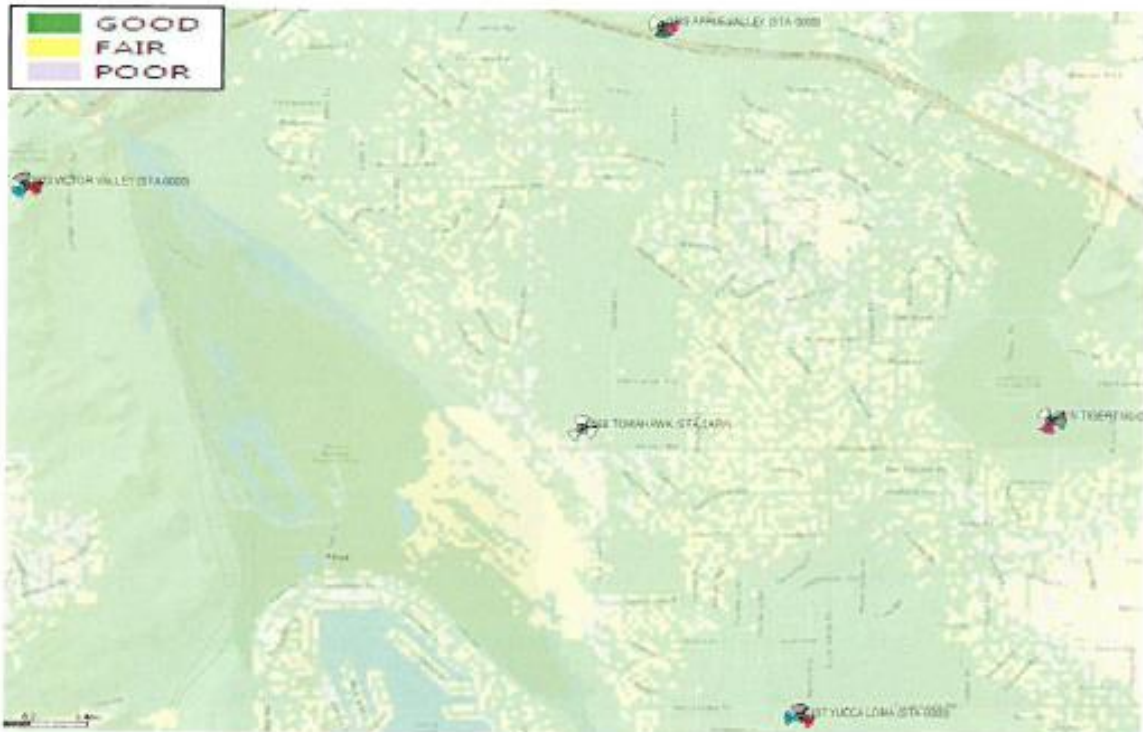
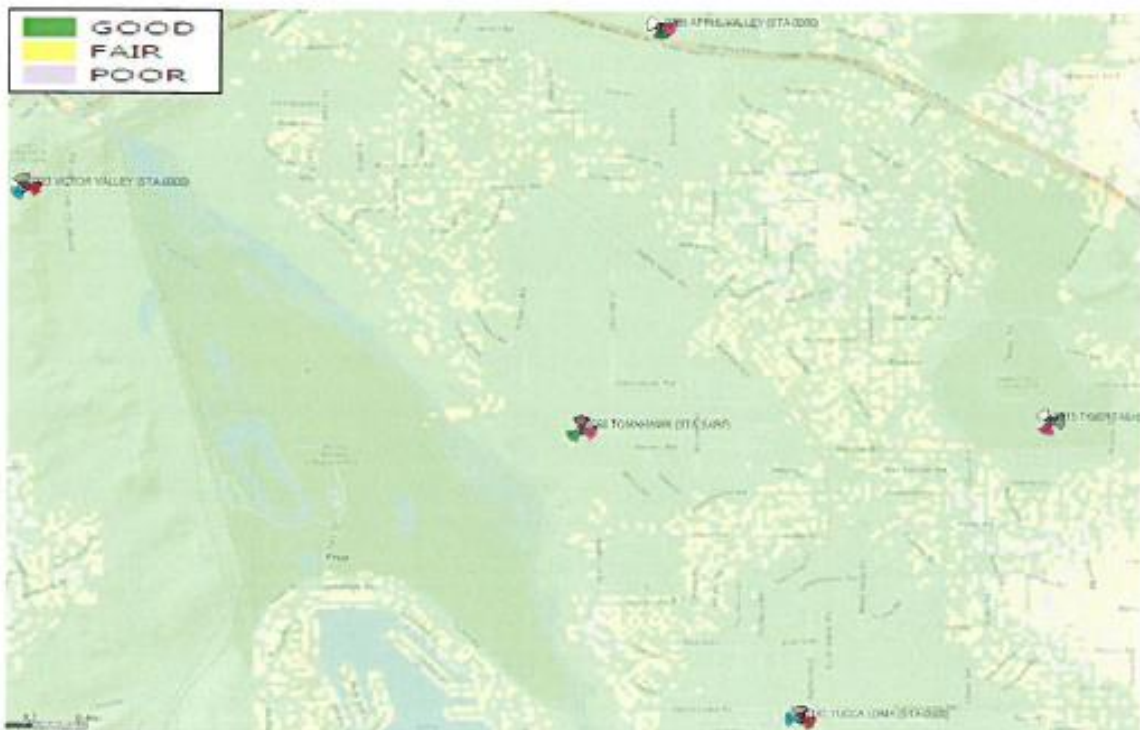
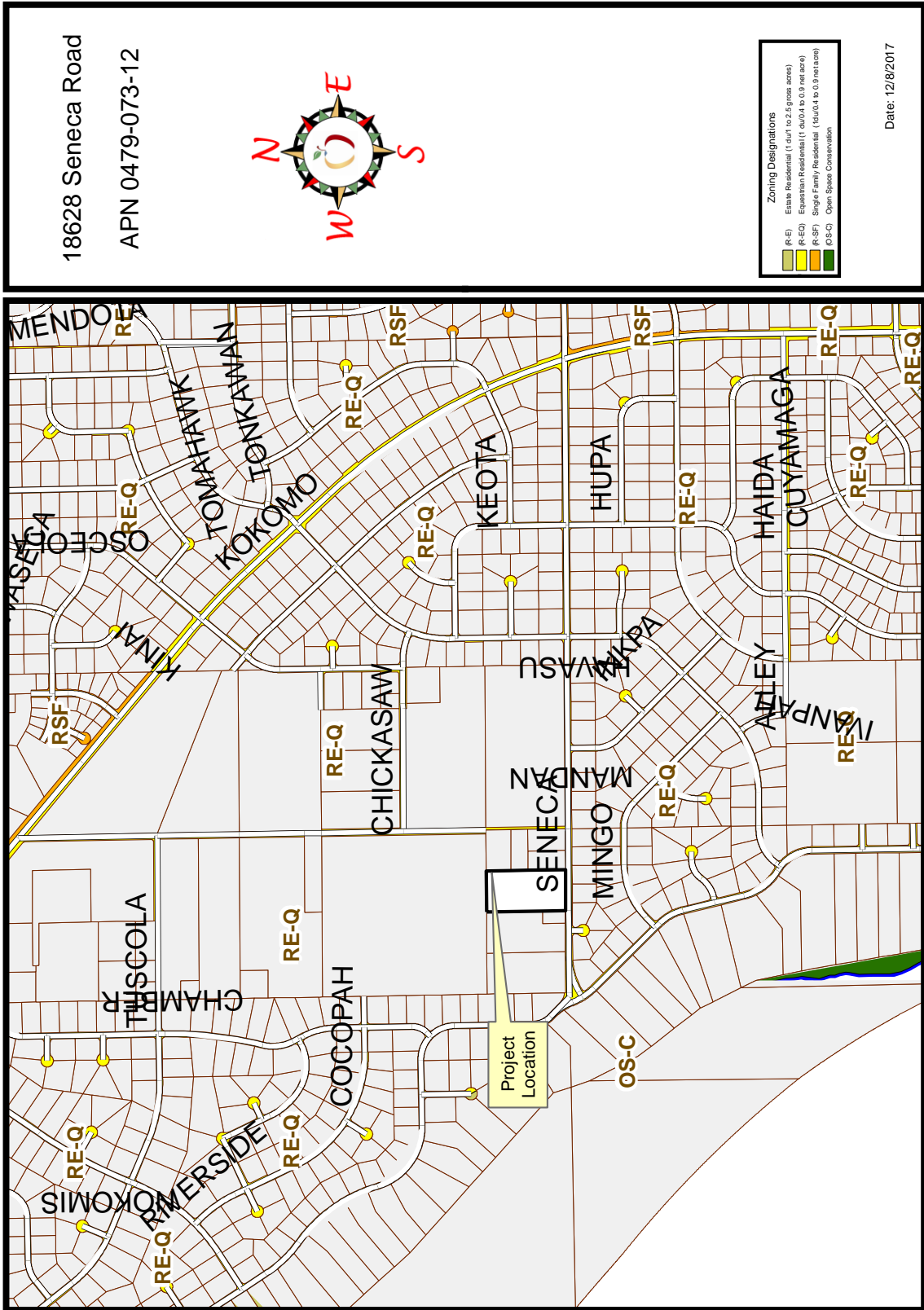


Figure 3 – Proposed Coverage



ZONING/LOCATION MAP

Conditional Use Permit No. 2017-003





TOWN OF APPLE VALLEY PLANNING COMMISSION

Get a Slice of the Apple.

Staff Report

AGENDA DATE:	December 20, 2017
CASE NUMBER:	Conditional Use Permit No. 2017-008
APPLICANT:	Oak Fence Senior, LLC
PROPOSAL:	A request for approval of a Conditional Use Permit to allow the operation of an eight (8)-bed, congregate living health facility. The project will include a 1,452-square foot addition to an existing 2,234 square foot single-family residence. The project site is one (1)-acre in size located within the Estate Residential (R-E) zoning designation.
LOCATION:	20135 Oneida Road; APN 3112-201-16
ENVIRONMENTAL DETERMINATION:	The project is a minor alteration to an existing private structure, and pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15301, Class 1, the proposal is Exempt from further environmental review.
CASE PLANNER:	Pam Cupp, Associate Planner
RECOMMENDATION:	Approval

PROJECT SITE AND DESCRIPTION

- A. Project Size:
The property is one (1)-acre in size.
- B. General Plan Designations:
Project Site – Estate Residential (R-E)
North - Estate Residential (R-E)
South - Estate Residential (R-E)
East - Estate Residential (R-E)
West - Estate Residential (R-E)

C. Surrounding Zoning and Land Use:

- Site - Estate Residential (R-E), Single-Family Residence
- North - Estate Residential (R-E), Single-Family Residence
- South - Estate Residential (R-E), Single-Family Residence
- East - Estate Residential (R-E), Single-Family Residence

D. Setback Analysis:

	<u>Minimum</u>	<u>Proposed</u>
Front	75 Feet	75 Feet
Side	15 Feet	15 Feet
Rear	15 Feet	104 Feet

E. Parking Analysis:

<u>Use</u>	<u>Required</u>	<u>Proposed</u>
1 space per staff member on the largest shift (9)	9	9
1 space per 3 residents (8)	3	3
Total	12	12

ANALYSIS

A. General:

Pursuant to the Development Code, a Residential Care Facility, licensed by the State, may operate within any residential zoning designation with a maximum of six (6) residents. The applicant is proposing to operate a congregate living health facility capable of housing eight (8) residents, therefore, a Conditional Use Permit approved by the Planning Commission is required.

B. Site Analysis:

The subject site is a one (1)-acre parcel located within the Estate Residential (R-E) zoning designation. The site is developed with an existing single-family residence and a detached, two (2)-car garage. There is an existing concrete circular driveway and a driveway to an existing, two (2)-car detached garage. The rear portion of the lot is fully fenced. The surrounding properties are developed with single-family residences.

A minimum of twelve (12) on-site parking spaces are required for this proposal (Condition P12). Site modifications will include the addition of a parking area in the back yard. This parking area will require paved access and striping consistent with the Development Code. Staff is recommending Condition P14 that will require a six (6)-foot high, decorative masonry wall along the property boundaries, outside of the front yard setback. This will reduce headlight glare and screen the paved parking area from the adjacent residences. The proposal also includes a 1,452-square foot addition to the rear of the existing single-family residence.

The Development Code requires a 2,000-foot separation between Large Residential Care Facilities and other sensitive uses such as schools, parks or religious institutions. The closest park, Norm Schmidt Park, is over 3,800 feet from the site. The nearest school is over one (1) mile from the subject site.

C. Floor Plan Analysis:

The existing structure is a three (3) bedroom, three (3) bath single-family residence. As proposed, the existing floor plan will be modified to a five (5) bedroom, three (3) bath plan. The existing living room, family room, kitchen and laundry room will remain with a medication room and physical therapy room now included. The applicant proposes a 1,452 square foot addition that would will add three (3) additional bedrooms, one (1) bathroom and an administrative office. Upon the completion the facility will have eight (8) bedrooms and four (4) bathrooms.

D. Architectural Analysis:

The existing residential structure was built in 1976 and has a beige stucco exterior with a composition shingle roof. The structure has a covered patio with large picture windows along the front elevation. The front elevation of the residence has recently been modified to include three (3) exit only doors providing egress from three (3) separate bedrooms. The doors are similar in appearance to the existing windows. The proposed addition will be along the rear elevation and not visible from the public right-of-way. As designed, the exterior modifications are consistent with single-family architecture and will not detract from the residential character and appearance of the area.

E. Operational Analysis:

The applicant proposes to operate an eight (8) bed, congregate living health facility. The State of California Department of Public Health (CDPH) is the licensing agency and identifies a congregate living health facility as follows:

“Congregate living health facility is a residential home with a capacity of no more than 18 beds (except those operated by a city or county which may have a capacity of 59 beds), that provides inpatient care, including the following basic services: medical supervision, 24-hour skilled nursing and supportive care, pharmacy, dietary, social, recreational, and at least one type of the following services: services for persons who are mentally alert, physically disabled persons, who may be ventilator dependent; services for persons who have a diagnosis of terminal illness, a diagnosis of a life threatening illness, or both; services for persons who are catastrophically and severely disabled. The primary need of congregate living health facility residents shall be for availability of skilled nursing care on a recurring, intermittent, extended, or continuous basis. This care is generally less intense than that provided in general acute care hospitals but more intense than that provided in skilled nursing facilities.”

The length of stay is typically less than one (1) month. Services provided are similar to those of a skilled nursing facility. Short term physical therapy and /or occupational therapy is provided for two (2) to four (4) weeks at which time the patient is discharged and may return home or may be transported to a long-term residential care facility.

A typical twelve (12)-bed facility requires approximately thirty-four (34) employees. While not all employees will be present at the same time, the first shift requires nine (9) employees consisting of two (2) Registered Nurses, two (2) Licensed Vocational Nurses or Certified Nursing Assistance, one (1) cook, one (1) house keeper, the Medical Director, Nursing Director and a payroll clerk. Physical therapists come to the facility and provide services to the residents on-site.

The Development Code requires that the property owner or designated on-site manager, that is not on parole/probation, to live on the site of any Large Residential Care Facility. This proposal is a sub-acute nursing facility that will be licensed through the California Department of Public Health (CDPH). The business requires twenty-four (24)-hour staffing; however, none of the employees or administrator shall reside at the premises. The name and a copy of legal identification of the property owner/on-site manager shall be provided to the Town of Apple Valley with the business license.

Staff received one (1) email expressing opposition to the proposal. This opposition was not specific regarding the type of use, but instead opposed any income producing activities within the Estate Residential zoning designation. The email is attached for the Commission's review.

Pursuant to the Development Code, residential care facilities licensed by the State, may operate within any residential zoning designation with a maximum of six (6) residents. Based upon the information provided, the additional two (2) residents will not change the overall characteristics of the single-family home or create significant impacts to the surrounding neighborhood. Should the Town determine that the congregate care facility is in violation of its Conditions of Approval, or finds that parking, traffic or noise problems exist on the site because of the operation, the Director may initiate revocation procedures and/or recommended additional mitigation measures for implementation as outlined within the Development Code and as stated under Condition P11.

F. Environmental Assessment:

The project is a minor alteration to an existing private structure, and pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15301, Class 1, the proposal is Exempt from further environmental review.

G. Noticing:

The project was legally noticed in the Apple Valley News on December 8, 2017 and notices were mailed to all property owners within 300-feet of the project site.

H. Findings:

As required under Section 9.16.090 of the Development Code, prior to approval of a Conditional Use Permit, the Planning Commission must make the following findings:

1. That the proposed location, size, design and operating characteristics of the proposed use is consistent with the General Plan, the purpose of this Code, the purpose of the zoning district in which the site is located, and the development policies and standards of the Town;

Comment: The proposed Residential Care Facility is located within the Estate Residential (R-E) Zoning District and is in compliance with the General Plan Land Use and zoning district that allows congregate care facilities for eight (8) residents within an existing single-family home, subject to approval of a Conditional Use Permit on the subject property.

2. That the location, size, design and operating characteristics of the proposed use will be compatible with, and will not adversely affect, nor be materially detrimental to adjacent uses, residents, buildings, structures or natural resources;

Comment: The subject site is one (1)-acre in size, currently developed with a single-family residence and is located on a local residential street (Oneida Road). The proposal is designed with adequate setbacks and is fully landscaped in accordance with the Development Code. The operating characteristics of the congregate care facility for eight (8) residents will not be detrimental to adjacent uses, residents, building, structures or natural resources.

3. That the proposed use is compatible in scale, bulk, lot coverage, and density with adjacent uses;

Comment: The surrounding area is an established single-family neighborhood. The proposed congregate care facility for eight (8) residents is compatible with surrounding uses because the site is designed to be architecturally compatible with the existing surrounding single-family residential neighborhood, including public development regulations. This project is not anticipated to generate excessive noise, vibration, traffic or other disturbances.

4. That there are public facilities, services and utilities available at the appropriate levels or that these will be installed at the appropriate time to serve the project as they are needed;

Comment: The project is an existing single-family residence and is connected to all utilities and the Town's sewer system in accordance with Development Code regulations, and to the satisfaction of the Town Engineer.

5. That there will not be a harmful effect upon desirable neighborhood characteristics;

Comment: The location, size, design and operating characteristics of the proposed congregate care facility, and the conditions under which it will be operated and maintained, will not be detrimental to the public health, safety or welfare, and will not be materially injurious to properties or improvements in the vicinity.

6. That the generation of traffic will not adversely impact the capacity and physical character of surrounding streets;

Comment: Traffic generated from the project will not adversely impact the surrounding area, as the project is an existing single-family residence, fronting a paved local street. The project will contain paved parking that meets the requirements as specified in the Development Code.

7. That traffic improvements and/or mitigation measures are provided in a manner adequate to maintain the existing service level or a Level of Service (LOS) C or better on arterial roads and are consistent with the Circulation Element of the General Plan;

Comment: The proposed congregate care facility for eight (8) residents is located on Oneida Road, a sixty (60) foot wide dedicated street, which can accommodate traffic generated from the project site. The project is fully

developed with existing street improvements. Traffic generated from the project will not adversely impact the surrounding area.

8. That there will not be significant harmful effects upon environmental quality and natural resources;

Comment: The project is a minor alteration to an existing private structure, and pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15301, Class 1, the proposal is Exempt from further environmental review.

9. That there are no other relevant negative impacts of the proposed use that cannot be reasonably mitigated;

Comment: The proposal is not anticipated to cause any negative impacts upon the environment.

10. That the impacts, as described in paragraphs 1 through 9 above, and the proposed location, size, design and operating characteristics of the proposed use, and the conditions under which it would be maintained, will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity, nor be contrary to the adopted General Plan;

Comment: The location, size, design and operating characteristics of the proposed facility, and the recommended conditions under which it will be operated and maintained, will not be detrimental to the public health, safety or welfare, and it will not be materially injurious to properties or improvements in the vicinity.

11. That the proposed conditional use will comply with all of the applicable provisions of this title.

Comment: The proposed congregate care facility for eight (8) residents is a permitted use with the approval of a Conditional Use Permit. With adherence with the Conditions of Approval will meet or exceed all applicable provisions of the Development Code.

12. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures.

Comment: The design, materials and details of the proposed facility will utilize an architectural design compatible with existing structures in the immediate area and conforms to Code requirements for a single-family residence.

13. That the development proposal does not unnecessarily block public views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use.

Comment: The congregate care facility for eight (8) residents is in conformance with Development standards for height and size and meets the required

setbacks for the R-E Zoning District. Therefore, there is no substantial adverse impact on the existing visual character or quality of the site and its surroundings.

14. That quality in architectural design is maintained in order to enhance the visual environment of the Town and to protect the economic value of existing structures.

Comment: The proposed congregate care facility for eight (8) residents is designed to be compatible with the surrounding development and will be located within the R-E Zoning District. The architectural design is maintained and does not detract from the visual environment.

15. That access to the site and circulation on and off-site is safe and convenient for pedestrians, bicyclists, equestrians and motorists.

Comment: The proposed congregate care facility for eight (8) residents will include a circular driveway for ingress/egress from Oneida Road and includes a two (2) car enclosed garage and paved and striped parking located in the rear for up to ten (10) additional vehicles.

Recommendation:

Based on 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:

1. Find that, pursuant to the California Environmental Quality Act (CEQA), Section 15301, Class 1, the proposed request is Exempt from further environmental review.
2. Find the facts presented in the staff report support the required Findings for approval for Conditional Use Permit No. 2017-008 and adopt those findings.
3. Approve Conditional Use Permit No. 2017-008 subject to the attached Conditions of Approval.
4. Direct staff to file a Notice of Exemption.

Prepared by:

Reviewed By:

Pam Cupp
Associate Planner

Carol Miller
Assistant Director of Community Development

ATTACHMENTS:

1. Recommended Conditions of Approval
2. Public Comment
3. Site Plan
4. Floor plan
5. Zoning Map

TOWN OF APPLE VALLEY

RECOMMENDED CONDITIONS OF APPROVAL
Conditional Use Permit No. 2017-008

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 project shall comply with the provisions of State law and the Town of Apple Valley Development Code and the General Plan. This conditional approval, if not exercised, shall expire three (3) years from the date of action of the reviewing authority, unless otherwise extended pursuant to the provisions of application of State law and local ordinance. The extension application must be filed, and the appropriate fees paid, at least sixty (60) days prior to the expiration date. The Conditional Use Permit 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. The applicant shall defend, at its sole expense (with attorneys approved by the Town), hold harmless and indemnify the Town, its agents, officers and employees, against any action brought against the Town, its agents, officers or employees concerning the approval of this project or the implementation or performance thereof, and from 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 in the defense of any such action, but such participation shall not relieve the applicant of this obligation under this condition.
- P3. Prior to approval of the Conditional Use Permit No. 2017-008 the following agencies shall provide written verification to the Planning Division that all pertinent conditions of approval and applicable regulations have been met:
- Building and Safety
 - Apple Valley Fire Protection District
 - California Department of Public Health
- P4. Conditional Use Permit No. 2017-008 shall adhere to all requirements of the Development Code.
- P5. The filing of a Notice of Exemption requires the County Clerk to collect a documentary handling fee of fifty dollars (\$50.00). The fee must be paid in a timely manner in accordance with Town procedures. No permits may be issued until such fee is paid.
- P6. The approval of Conditional Use Permit No. 2017-008, by the Planning Commission is recognized as acknowledgment 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.
- P7. Lighting fixtures shall be of a type, and be located in such a manner, that no light or reflected glare is directed off-site. Light standards shall be installed with a light shield in

- the parking lot area that is adjacent to the existing single-family residence to the south of the project site.
- P8. The residence shall have a maximum occupancy of eight (8) residents in addition to required associated staff. Prior to Final Inspection, a copy of the facility license from the California Department of Public Health for eight (8) residents shall be provided to the Town and kept on file with the Planning Division.
- P9. It is the sole responsibility of the applicant on any permit, or other appropriate discretionary review application for any structure to submit plans, specifications and/or illustrations with the application that will fully and accurately represent and portray the structures, facilities and appurtenances, thereto, that are to be installed or erected if approved by the Commission. Any such plans, specifications and/or illustrations that are reviewed and approved by the Planning Commission at an advertised public hearing shall accurately reflect the structures, facilities and appurtenances expected and required to be installed at the approved location without substantive deviations, modifications, alterations, adjustments or revisions of any nature.
- P10. No major deviation, modification, alteration, adjustment or revision to or from the appearance, location, fixtures, features or appurtenances thereto of any type or extent shall be approved without said changes being first submitted to the Planning Commission for consideration and approval. Said review shall not rise to the level of a revision to the original Permit or other discretionary review, therefore, necessitating a new public hearing, but shall, instead, constitute a clarification of the Planning Commission's original approval.
- P11. If in the future the Town determines that parking, traffic or noise problems exist on site because of the congregate care facility operations or that, the facility is violation of Development Code or Conditions of Approval for CUP 2017-008, the Director may initiate revocation of CUP 2017-008. The applicant/property owner will be directed to prepare an analysis report of impacts and bear all associated cost of preparation of the analysis study. If the study indicates that the use does not comply with the Development Code or that there is parking, traffic, or noise impacts, the applicant/property owner shall be required to provide mitigation measures to be reviewed and approved by the Planning Commission.
- P12. The facility shall provide a minimum of twelve (12) on-site parking spaces. Ten (10) of the required parking spaces shall located behind the residence clearly striped and permanently maintained with double or hairpin lines.
- P13. All vehicle parking and maneuvering areas shall be paved.
- P14. A solid six (6)-foot high, decorative masonry wall shall be provided along the property boundaries, outside of the front yard setback, subject to review and approval by the Planning Division.
- P15. All front building setbacks and street right-of-way areas located between on-site improvements and the back of existing or future public sidewalks or street curbs, except needed access driveways, shall be fully landscaped and maintained in a disease and weed free manner at all times.
- P16. Landscaping shall be installed with appropriate combinations of drought tolerant trees, shrubs, and ground cover, consistent with Chapter 9.75, Water Conservation Landscape Regulations, of this Code.
- P17. Final landscape and irrigation plans shall be submitted prior to the issuance of Building permits and installed prior to issuance of occupancy permits subject to approval by the Planning Division.

- P18. All required and installed landscaping shall incorporate and maintain a functioning automatic sprinkler system, and said landscaping shall be maintained in a neat, orderly, disease and weed free manner at all times.
- P19. All lighting used in parking lots for security purposes or safety-related uses shall be scheduled so light rays emitted by the fixture are projected below the imaginary horizontal plane passing through the lowest point of the fixture and in such a manner that the light is directed away from streets and adjoining properties. Light trespass to adjacent properties is prohibited.
- P20. The project site shall maintain a single-family residential character.
- P21. The facility shall obtain annually a Town of Apple Valley Business License.
- P22. The facility shall not exceed a maximum of eight (8) residents at any one time.
- P23. All required State and Federal licenses for the Congregate Living Health Facility shall be posted within the premises and a copy shall be provided to the Town of Apple Valley Planning Division.
- P24. All County Environmental Health Department regulations and Community Care Licensing regulations shall be met at all times.
- P25. The Planning Commission, at its discretion, may impose additional operational conditions to ensure the compatibility of the facility with the neighborhood and to ensure the health and safety of a facility and the neighborhood in which the facility is located.

Building and Safety Division Conditions of Approval

- BC.1 Submit plans and obtain permits for all structures and retaining walls, signs.
- BC.2 Comply with the State of California Disability Access requirements.
- BC.3 Construction must comply with current California Building Codes and green Building Code.
- BC.4 2016 California Building Code classification is R-2.1. See Section 310.4.1 and 420.1 for additional requirements.

Public Works Division Conditions of Approval

- PW1. Provide engineering calculations to Apple Valley Public Works to determine daily domestic wastewater discharge volumes. Secondary level treatment of sewage wastewater (connection to Town of Apple Valley sewer system) will be required for all development projects with wastewater discharge volumes exceeding 500 gallons / day / acre.
- PW2. If the project is under 500 gallons per acre per day, connection to the Town sewer will not be required.

Engineering Division Conditions of Approval

- EC1. Prior to issuance of a grading permit, 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 90 percent of the pre-development flow for a 100 year design storm.

- EC2. Traffic impact fees adopted by the Town shall be paid by the developer.
- EC3. Any developer fees adopted by the Town including but not limited to drainage fees shall be paid by the developer.

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. All new construction shall comply with applicable sections of the California Fire Code, California Building Code, Development Code, Community Plans, and other statutes, ordinances, rules, and regulations regarding fires and fire prevention adopted by the State, County, Town of Apple Valley, or Apple Valley Fire Protection District.
- FD3. Approved numbers or addresses shall be placed on all existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers shall be internally illuminated by premises wiring. Where building setbacks exceed seventy-five (75) feet from the roadway, additional contrasting four (4)-inch numbers shall be displayed at the property entrance.
- FD4. Each chimney used in conjunction with any fireplace or any solid fuel heating appliance shall be maintained with an approved spark arrestor.
- FD5. All combustible vegetation, such as dead shrubbery and dry grass, shall be removed from each building site a minimum distance of thirty (30) feet from any combustible building material, including the finished structure. This does not apply to single specimens of trees, ornamental shrubbery or similar plants, which are used as ground cover if they do not form a means of transmitting fire.
- FD6. 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. Road grades shall not exceed twelve (12) percent unless approved by the Fire Chief. A.V.F.P.D. Ord. 55
- FD7. **NFPA 13D (RESIDENTIAL AUTOMATIC FIRE SPRINKLER SYSTEM): REQUIRED**
This residence shall be constructed with an automatic fire sprinkler system (NFPA 13D) throughout the structure, including garage. Plans shall be submitted by a licensed C-16 contractor to the Fire District for review and approval along with plan review fees. Fire Sprinkler work shall not commence until plan approval and a job card have been issued. An approved fire alarm system shall be installed that will provide a local alarm for water flow to be audible throughout the premises. **NOTE: The Fire District shall be notified a minimum of 24 hours prior to the desired final inspection date.**

END OF CONDITIONS

Pamela Cupp

From: Marie Stein-Mosset <mariestein6755@hotmail.com>
Sent: Tuesday, December 12, 2017 11:40 AM
To: Pamela Cupp
Subject: Conditional Use Permit for 20135 Oneida Rd

Dear Pam,


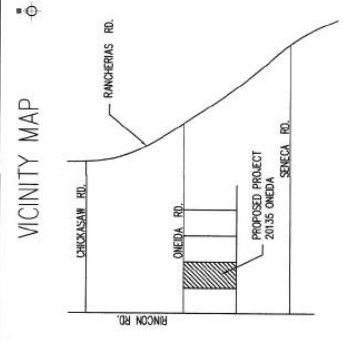
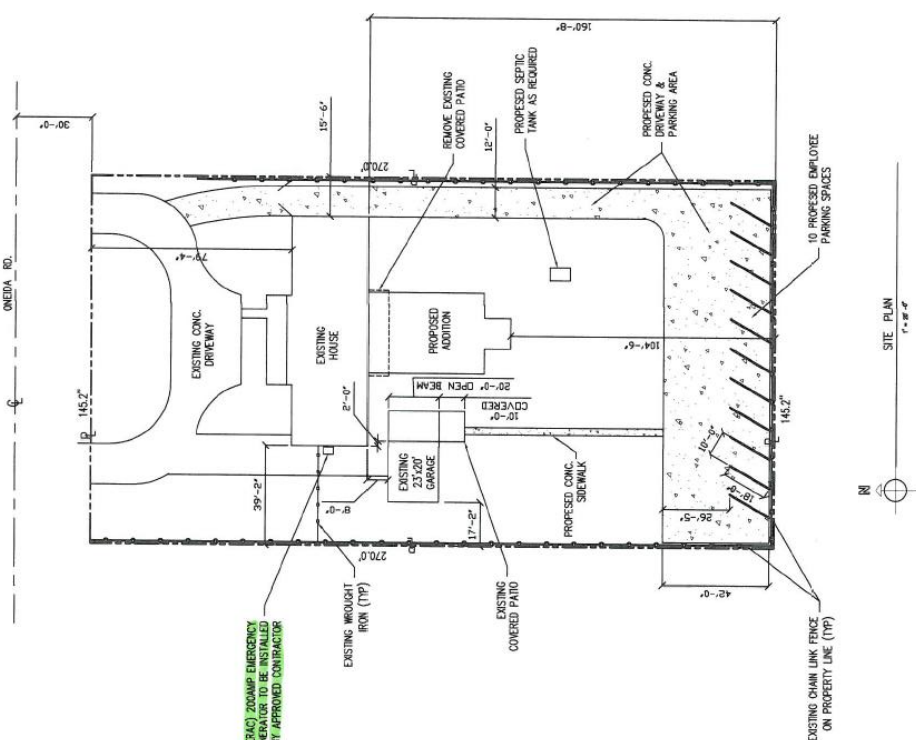
I received your "interesting" letter regarding a hearing that has been scheduled before the Town of Apple Valley for December 20th. Interesting that it was just received a few days ago, interesting that it is a "project" planned to be built in what is zoned "ESTATE" Residential zoning. Where does the word ESTATE, mean allowing someone to violate the rights of existing homeowners who chose to live in this type of zoning specifically to avoid an income producing type of business? Or any business?

I chose to e-mail you as I will be out of town on the hearing date and wanted you to know my position. Since am in the real estate business, a homeowner in the area, and a tax payer for over 20 years in this town. I can also check to see where you live and wonder how you would feel if this similar project were to be built in your back yard.

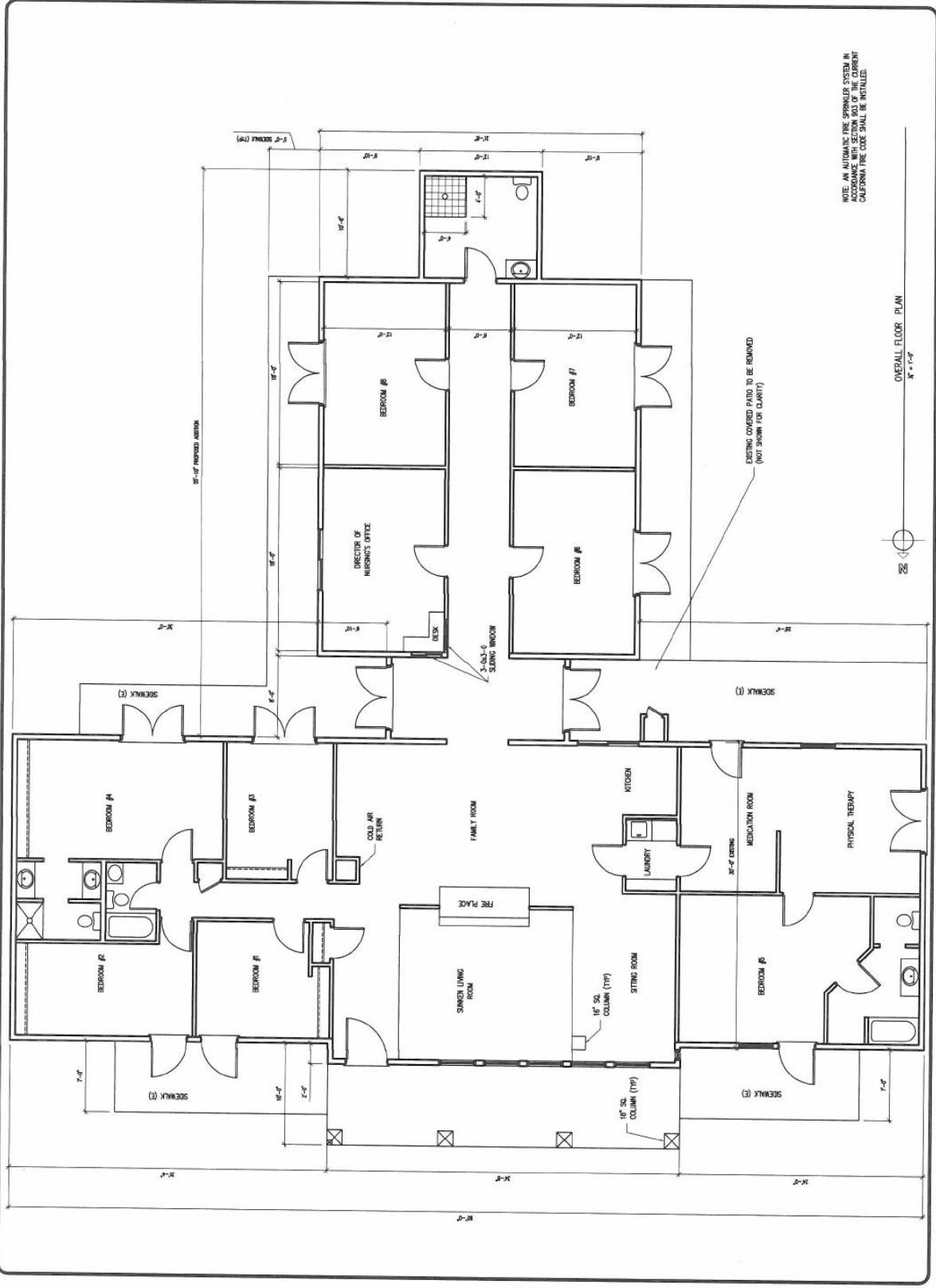
In the letter you say this project is a MINOR alteration to an existing private structure. An 1857-square foot building is not a minor alteration note I do sell real estate so I know what 1857-square feet is. Minor, indeed!

I am therefore vehemently voicing my objection to this project!

M Mosset

REVISIONS BY DATE	SITE PLAN Sheet Title:	 4100 S. 12th St. West Suite 100 Phoenix, AZ 85027 602-998-1234	DRAWN BY J.L.F. CHECKED R.P.C. DATE 11/17/17 SCALE 1/8"=1'-0"	1												
PROJECT INFORMATION JOB ADDRESS: 2015 ONEDA RD. APPLE VALLEY CA. 92307 NUMBER OF BUILDINGS THIS PROJECT: ONE OCCUPANCY: R-E CONSTRUCTION DATA: TYPE OF CONSTRUCTION: WOOD FRAME EXTERIOR WALL SURFACE: STUCCO ROOFING: COMP. SHINGLES BUILDING FT.: 13' ± NO. OF STORIES: ONE BUILDING AREA: 2768 SQ. FT. 50 FT. LONG (EXISTING) 1452 SQ. FT. 50 FT. LONG (ADDITION) TOTAL SQ. FT. LONG: 4220 SQ. FT. GARAGE: 460 SQ. FT. PORCHES & PATIOS: 812 SQ. FT. OTHER:		LEGAL DESCRIPTION TRACT NO. _____ LOT NO. _____ PARCEL: _____ RS BOOK: _____ PAGE(S) _____ COUNTY OF: SAN BERNARDINO OTHER: APN 3112-201-16														
VICINITY MAP 		NOT TO SCALE														
NOTE: AN AUTOMATIC FIRE SPRINKLER SYSTEM IN ACCORDANCE WITH SECTION 803 OF THE CURRENT CALIFORNIA FIRE CODE SHALL BE INSTALLED.																
<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="text-align: center;">INDEX</th> </tr> </thead> <tbody> <tr> <td style="width:5%; text-align: center;">1</td> <td style="width:95%;">SITE PLAN</td> </tr> <tr> <td style="text-align: center;">2</td> <td>FLOOR PLAN</td> </tr> <tr> <td style="text-align: center;">3</td> <td>ELEVATIONS</td> </tr> <tr> <td style="text-align: center;">4</td> <td>PICTURES</td> </tr> <tr> <td style="text-align: center;">5</td> <td>PICTURES</td> </tr> </tbody> </table>					INDEX		1	SITE PLAN	2	FLOOR PLAN	3	ELEVATIONS	4	PICTURES	5	PICTURES
INDEX																
1	SITE PLAN															
2	FLOOR PLAN															
3	ELEVATIONS															
4	PICTURES															
5	PICTURES															
																

	FLOOR PLAN Sheet Title:	OWNER: KEN BLOSSOM 6036 OAKFENCE LN. LANCASTER, CA. 93536 PHONE: 661-917-2912	NOTE: CONTRACTOR/OWNER SHALL NOTIFY THE ENGINEER OF RECORD IMMEDIATELY IF THESE PLANS DEVIATE FROM THE PERMITS DISCREPANCY IN THESE PLANS
DRAWN BY: LCT CHECKED: T. ADRIAN DATE: 10/26/17	2		





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TOWN OF APPLE VALLEY PLANNING COMMISSION

Staff Report

AGENDA DATE:	December 20, 2017 (Continued from 12/6/17)
CASE NUMBER:	Development Code Amendment No. 2017-001
APPLICANT:	Town of Apple Valley
PROPOSAL:	An amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code that will amend Chapters 9.28 "Residential Districts", 9.29 "Specific Use Regulations for Residential Districts" and 9.31 "Residential Design Standards" and 9.72 "Off-Street Parking Regulations" relating to multi-family residential development standards.
LOCATION:	Town-wide
EXISTING GENERAL PLAN DESIGNATIONS:	Multi-Family (R-M)
EXISTING ZONING:	Multi-Family (R-M)
ENVIRONMENTAL DETERMINATION:	Staff has determined that the project is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State Guidelines to Implement CEQA, which states that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA.
PROJECT PLANNER:	Carol Miller, Assistant Director of Community Development
RECOMMENDATION:	Discuss and provide direction

BACKGROUND

At its meeting of December 6, 2017, the consensus of the Planning Commission was to reduce the minimum unit square-footage by twenty-five (25) percent for projects that consisted of five (5) or more units, a fifteen (15) percent reduction for projects consisting of two (2) to four (4) units and the garage requirement remain for projects consisting of two (2) to four (4) units. The Commission also requested literature on two complexes. The complex brochure for the project in Victorville is attached. The La Mirage project consists of fifty-two (52), 926 square-foot two-bedroom units. The project amenities include a club house and a pool and spa. The senior project located in Hesperia is a ninety-six (96) unit apartment complex on ten (10) gross acres. The one-bedroom units are 598 square feet in size and the two-bedroom units are 809 square feet in size. The project amenities include a club house, a pool and spa, a dog walk, and a putting green. The project is located on the north side of Avenal Street, approximately 900 feet east of Mariposa Road.

ANALYSIS

For the purposes of discussion, staff would recommend that each item be discussed and a consensus on each standard change before moving on. Staff would also recommend under the discussion of parking that consideration be given to the garage requirement remaining for projects consisting of two (2) to four (4) units. Staff believes the garage not only serves as an amenity for these smaller projects but also contributes to the overall architectural design.

Below staff has provided current requirements and proposed standards to begin the discussion.

Minimum Unit Size Requirement for projects that consisting of five (5) or more units:

Current:	Studio	1-Bedrm	2-Bedrm	3-Bedrom +
	600 s.f	800 s.f	1,000 s.f.	1,200 s.f.
Proposed:	Studio	1-Bedrm	2-Bedrm	3-Bedrom
	450 s.f.	600 s.f.	750 s.f.	900 s.f.

Minimum Unit Size Requirement for projects that consisting of two (2) to four (4) units:

Current:	Studio	1-Bedrm	2-Bedrm	3-Bedrom +
	600 s.f	800 s.f	1,000 s.f.	1,200 s.f.
Proposed:	Studio	1-Bedrm	2-Bedrm	3-Bedrom
	510 s.f.	680 s.f.	850 s.f.	1,020 s.f.

Private & Common Open Space Requirement:

Current: Private OS- 150 sq. ft. 450 sf. ft for duplex & triplexes
 Proposed: 150 sq. ft. 450 s.f for duplex thru fourplexes.

Current: Common OS - 15% of lot area & 200 sq. ft. per unit devoted to amenity area(s)
 Proposed 200 sq. ft. per unit

Amenities Requirement :

Current:	4-10 units = 1	11-50 units =2	51-100 units = 3	101-200 units =4
Proposed:	5-24 units = 1	25-50 units = 2	51-75 units = 3	76-99 units = 4
	100-200 units = 5			

For each 25 units above 200, 1 additional recreational facility shall be provided.

Common open space areas shall contain amenities appropriate to project size, i.e. pool, spas, recreation buildings are encouraged for large projects, while BBQ areas and gazebos may be more appropriate for smaller projects.

Parking Requirements:

Current:	Studio 1 covered	1 & 2 Bedroom 2 enclosed	3 & 4 Bedroom 2 enclosed, 1 open 0.50 space per unit (guest)
Proposed:	Studio 1 covered	1 & 2 Bedroom 2 spaces per unit 1 garage or carport	3 & 4 Bedroom 2 spaces per unit 1 garage or carport

Duplex to fourplex projects are required 2 enclosed spaces per unit.

NOTICING


Development Code Amendment was legally noticed in the newspaper on November 17, 2017 and distributed to those on the workshop list.

RECOMMENDATION

Following receipt of public input and discussion by the Commission, it is recommended that the Commission move to provide direction and continue the public hearing.

Prepared By:

Carol Miller
Assistant Director of Community Development

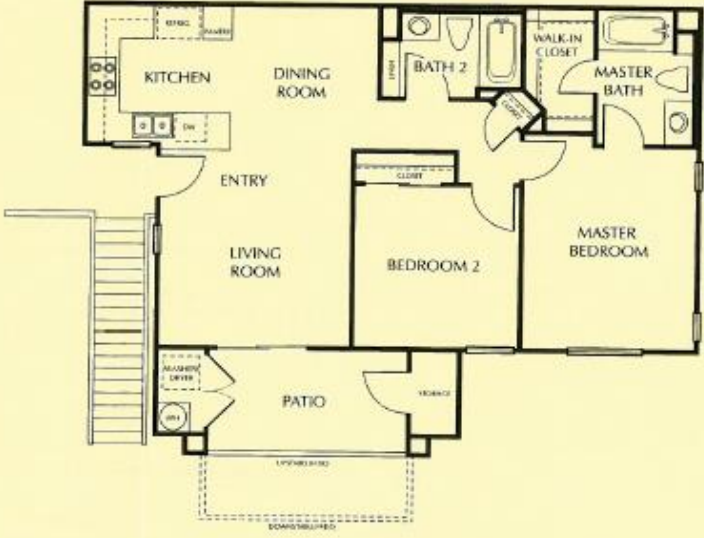


La Mirage

APARTMENT HOMES

Upgraded Features

- Covered Balcony or Patio Per Elevation
- Attractive Ceramic Tile Entry
- Colonist Doors
- Ceiling Fans in Bedrooms and Living Room
- Privacy Vertical Blinds on All Windows
- Master Bedroom Walk-In Closet
- Decorator Selected Carpeting in Living Areas
- Decorator Selected Vinyl Floors in Kitchen and Baths
- Upgraded Countertops and Cabinets
- Quality Appliance Package
 - Dishwasher
 - Gas Stove
 - Built-In Microwave Oven
 - Refrigerator
 - Washer & Dryer
- Energy-Efficient, Forced-Air Heating and Air Conditioning with Programmable Thermostat
- Multiple Telephone and Cable Outlets in All Bedrooms and Living Areas
- Pre-Wired for Verizon Fiber Optic Services
- Pre-Wired for High-Speed Internet Service
- Pre-Wired for Charter Cable and DIRECTTV Satellite Television
- Handicap Accessories Available (See Leasing Manager for Details)



Features are subject to change without notice.
Floor plan is not to scale. Square footage is approximate.

926 Square Feet • 2 Bedrooms • 2 Bathrooms

Community Amenities

- Spanish-Style Architecture
- Gated Community with Security Monitoring
- Solar-Heated Pool and Spa
- Fully Equipped Fitness Center
- Modern Recreational Center with Internet Access, Big-Screen Television and Kitchen
- Neighborhood Greenbelt
- Covered Parking
- Convenient to Shopping
- Good Schools Nearby
- 24-Hour Service Line
- Built-In Pest Control System
- SunTrek Solar Panel Energy Systems for Common Areas
- Radiant Barrier Roofing for Cooler Units and Energy-Efficiency

In the interest of continuing improvement, JD Pierce Company reserves the right to change floor plans, specifications, construction materials and features without prior notice.



Monthly Rent From:



Map and lot areas not to scale and subject to change. Rendering is artist's conception.



14416 Mc Art Road • Victorville, CA 92392
 Phone: (760) 241-0055 • Fax: (760) 241-5556 • LaMirageApts@jdpierce.com





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TOWN OF APPLE VALLEY PLANNING COMMISSION

Staff Report

AGENDA DATE:	December 20, 2017
CASE NUMBER:	Development Code Amendment No. 2017-003
APPLICANT:	Town of Apple Valley
PROPOSAL:	An amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code by amending Section 9.71.140 of Chapter 9.71 relating to the Town's acceptance of lien agreements as securities for subdivision improvement agreements.
LOCATION:	Town-wide
ENVIRONMENTAL DETERMINATION:	Staff has determined that the project is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State Guidelines to Implement CEQA, which states that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA.
STAFF:	Richard Pedersen, Deputy Engineer
RECOMMENDATION:	Adopt Planning Commission Resolution No. 2017-004.

BACKGROUND

The Great Recession starting in 2007 hit many new housing developments hard. Many having received all their tentative map approvals, did not proceed to construction, and remain on hold. After the recession hit, there arose a risk that a developer's previously approved tentative map would expire before construction was started. To assist struggling homebuilders, the California Legislature passed four separate pieces of legislation, dating back to July of 2008, which served to extend the life of most existing maps for up to an additional seven years beyond the life provided map approvals and extensions under the Subdivision Map Act. However, as of 2017, these automatic extensions are expiring. Those developers who are not able to obtain discretionary

extensions will need to record subdivision maps or face the possibility of seeking project approvals on old subdivisions all over again.

Prior to subdivision maps being approved and recorded, public improvements that are required by the Town's Municipal Code must be either installed and completed, or the developer may enter into a Subdivision Agreement that guarantees that the required improvements will be completed with 24 months of final map recordation. The Subdivision Map Act enables a local jurisdiction to accept certain types of securities to ensure that required improvements are completed. The Town Development Code allows acceptance of surety bonds, letters of credit, or cash deposits to secure the installation of public improvements prior to a final map recording.

At its meeting of October 24, 2017, the Town Council requested staff to investigate the feasibility of including what are called Lien Agreements in lieu of the currently accepted public improvement securities to allow a final map to be recorded.

ANALYSIS

The proposed revisions to the Development Code would permit the Town to accept Lien Agreements in lieu of traditional securities when the Town Council determines it is in the public interest not to require the public improvements to be completed sooner than two (2) years after recordation of the map and where the property secured by the lien is at least equal in value to the cost of the public improvements to be installed.

The revisions proposed by this Ordinance only permits a Lien Agreement to remain in place for a period of three (3) years (with one additional three (3)-year period if certain requirements are met) to ensure that public and other improvements are constructed by a date certain. Although the proposed amendment will relax certain Town regulations to provide relief to subdividers/developers at this time, it contains an automatic sunset provision to ensure the Town does not continue to accept lien agreements in perpetuity if such agreements do not serve their intended purpose and/or when the economic conditions necessitating their use no longer exist. As written the Lien Agreement provisions will expire six (6) years following the adoption date.

Subdivision d would be added to Section 9.71.140.B.5 of Chapter 9.71 of the Development Code to read as follows:

- d. Lien Agreements in compliance with the following terms:
1. The Subdivider/property owner ("Subdivider") may enter into an agreement with the Town to construct in the future the public portions of the subdivision improvements required by the map conditions of approval, as determined by the Town Engineer, including, but not limited to: master planned or "missing link" streets, drainage and sewer improvements, community facilities, off-site improvements, fire access, fire flow and traffic signals (hereinafter "Required Improvements") and securing such performance by granting the Town a lien on the real property to be divided. Such agreements shall be known as "Lien Agreements." The use of Lien Agreements shall only be allowed if all requirements in this subdivision B.5.d of this Section 9.71.140 are satisfied.
 2. California Government Code section 66499(a)(4) authorizes the Town to enter into Lien Agreements if the Town Council finds that it would not be in the public interest

to require the installation of the Required Improvements sooner than two (2) years after the recordation of the map.

3. Where the Town Council finds it would not be in the public interest to require the installation of the Required Improvements sooner than two (2) years after recordation of the map, the Subdivider may execute a Lien Agreement with the Town at the time the Subdivider enters into the improvement agreement specified in Section 9.71.140.B.3 ("Subdivision Improvement Agreement") of this Chapter 9.71.
4. At the sole discretion of the Town, a Lien Agreement may be used to substitute an existing security furnished under Section 9.71.140.B.5 for Required Improvements under a previously-executed Subdivision Improvement Agreement, if: (1) no activity for the subdivision has transpired; (2) no inspections have occurred; (3) no permits for construction of improvements have been issued within one year of the recordation of the subdivision map; and (4) upon a finding by the Town Council that it would not be in the public interest to require the installation of the Required Improvements sooner than two years after the recordation of the map.
 - i. The Town will not accept a Lien Agreement from any Subdivider, either at the time of execution of the Subdivision Improvement Agreement, or as a substitute for existing security, if: (1) any individual lots have been sold; (2) any construction permits, including but not limited to any grading or building permits, have been issued on any of the property; or (3) construction of any of the Required Improvements has begun.
 - ii. Notwithstanding the provisions of Subdivision 140.B.5.d.4.i above, the Town may accept a Lien Agreement from a Subdivider as a substitute for an existing security if grading has commenced on the land divided, so long as the grading is in strict accordance with a valid grading permit and all the following conditions are met:
 - (1) There is no need for the Town to construct the Required Improvements if the Subdivider's project is abandoned or delayed for any period of time;
 - (2) The grading has no effect on the use, operation and maintenance of existing streets or highways, public or private;
 - (3) The grading has not caused the modification or closure of any public access points, existing streets or highways, public or private;
 - (4) Additional drainage improvements and/or erosion controls are not necessary and/or installed in the road right-of-way due to the grading;
 - (5) Delay of the construction of the Subdivider's Required Improvements do not affect or delay the improvements of an adjacent Subdivider who has already commenced work on his/her Required Improvements;

- (6) The completion of any public improvements are not required by the Town's general plan circulation element, master plan of drainage, master sewer plan or master water plan or for any other reason for the purposes of preserving public health, safety or welfare;
 - (7) The Subdivider provides a separate security as specified in Section 9.71.140.B.5 above, for the maintenance of the graded land, including without limitation, dust control, erosion control, fencing, and any other maintenance as required by the Town; and
 - (8) In the case that any individual lots have been sold, at the discretion of the Town and only after the Town has performed a comprehensive review of the development (which may include approval of a construction phasing plan), completion of Required Improvements to serve the individual lots as determined by the Town Engineer and other requirements and conditions to be met prior to acceptance of the Lien Agreement.
 - iii. Lien Agreements used to substitute for existing security shall be recorded against all lots that have not passed a final inspection and for which all required associated improvements, as determined by the Town Engineer, have not been completed ("Undeveloped Lots"). Such Lien Agreements shall also meet all of the requirements set forth in Sections 9.71.140.B.5.d.5 through 9.71.140.B.5.d.13 below.
- 5. Lien Agreements, including those used to substitute for existing security under Section 9.71.140.B.5.d.4, above, shall:
 - i. Be allowed only where the Subdivider provides a title insurance policy and title report from a title company approved by the Town documenting that: (1) the Subdivider is the record owner of the entire property to be subdivided (or in the case of a substitute security, documenting that the Subdivider is the record owner of all Undeveloped Lots) against which the Lien Agreement is to be recorded; and (2) such aforementioned property is not encumbered by any mortgages, deeds of trust, or liens. The title insurance policy and title report shall be issued forty-five (45) days prior to the execution of the Lien Agreement.
 - ii. Be in a form acceptable to and approved by the Town Manager and the Town Attorney.
 - iii. Be executed by the Mayor on behalf of the Town, and by all current record owner(s) of the property to be divided (or in the case of a substitute security, all owners of the Undeveloped Lots), as evidenced by the title insurance policy and report specified in Section 9.71.140.B.5.d.5.i, above.
 - iv. Be used only to secure future improvements that would be required for any final map and/or when a Subdivider would be required by Chapter 9.71 to construct, or agree to construct, the Required Improvements for a subdivision.

- v. Contain a detailed itemization of the Required Improvements (or in the case of a substitute security, any remaining Required Improvements) and an engineer's estimate of costs to construct same, as approved by the Town Engineer, and specify that the Subdivider's obligation, and that of Subdivider's successors in interest, extends to the actual cost of construction of the aforementioned improvements if such costs exceed the estimate.
 - vi. Be allowed if the Town Engineer determines the estimated costs to construct the Required Improvements (or in the case of substitute security, the remaining Required Improvements) do not exceed the fair market value of the real property against which the Lien Agreement is to be recorded, based on an appraisal conducted by an independent, licensed real estate appraiser not more than sixty (60) days prior to the date any Lien Agreement is entered. Subdivider shall furnish such appraisal to the Town at least forty-five (45) days prior to the date any Lien Agreement is entered.
 - vii. Contain a legal description of the entire real property against which the Lien Agreement is being recorded as security for the Required Improvements (or in the case of substitute security, as security for the remaining Required Improvements).
 - viii. Be recorded with the San Bernardino County Recorder against the entire property to be divided by the map (or in the case of substitute security, against all Undeveloped Lots). The recorded Lien Agreement shall be indexed in the Grantor index to the names of all record owners of the real property as specified on the map and/or in Section 9.71.140.B.5.d.5.i above, and in the Grantee index to the Town.
 - ix. Be approved concurrently with the approval of the final map and the Subdivision Improvement Agreement executed by Subdivider, with a note of the Lien Agreement's existence placed on the map, except where the Lien Agreement is being used as substitute security after final map approval under Section 9.71.140.B.5.d.4 above, in which case the Lien Agreement shall be signed and acknowledged by all parties having any record title interest in the property against which the Lien Agreement is being recorded, as prescribed by California Government Code section 66436, consenting to the subordination of their interests to the Lien Agreement.
 - x. Require the Subdivider to pay an application fee to the Town for the processing of the Lien Agreement in an amount established and revised from time-to-time by resolution of the Town Council and included in a schedule of fees.
 - xi. Be recorded concurrently with the Map.
6. From the time of recordation of the Lien Agreement, a lien shall attach to the real property described therein and shall have the priority of a judgment lien in an amount necessary to complete the Required Improvements (or in the case of

substitute security, the remaining Required Improvements) and under no circumstances shall the Town be obligated to agree to subordinate the lien.

7. The Lien Agreement shall provide that:
 - i. The Subdivider must deliver acceptable replacement security to the Town in the types and amounts specified in Sections 9.71.140.B.5.a. through 9.71.140.c. and Section 9.71.140.B.7 and approved by the Town Council in place of the Lien Agreement and commence construction of the Required Improvements and any other improvements imposed as map conditions of approval (hereinafter "Other Improvements") within three (3) years following recordation of the map; or
 - ii. In the case of a substitute security, the Subdivider must deliver acceptable replacement security to the Town (in the types and amounts specified in Sections 9.71.140.B.5.a. through 9.71.140.c. and Section 9.71.140.B.7 and approved by the Town Council) in place of the Lien Agreement and commence construction of the remaining Required Improvements and Other Improvements within three (3) years following recordation of the Lien Agreement; and
 - iii. Once the Lien Agreement is recorded, the Town shall not issue any development or construction permits for the property subject to the Lien Agreement until the aforementioned delivery of acceptable replacement security to the Town has occurred.
8. The time for delivery of acceptable replacement security to the Town and commencement of construction as specified in Sections 9.71.140.B.5.d.7.i and 9.71.140.B.5.d.7.i above, may be extended once for an additional three (3) year period as approved by the Town Engineer or his designee. A Lien Agreement may therefore only be in effect for a total of six (6) years. In order to receive an extension of time under this Subsection, both of the following conditions must be met:
 - i. The Subdivider shall provide a title insurance policy and title report from a title company approved by the Town documenting that: (i) the Subdivider is the record owner of the entire subdivided property against which the Lien Agreement is currently recorded as security (or in the case of a substitute security, documenting that the Subdivider is the record owner of all Undeveloped Lots against which the Lien Agreement has been recorded); and (ii) such subdivided property or Undeveloped Lots are not encumbered by any mortgages, deeds of trust, or liens. The title insurance policy and title report shall be issued forty-five (45) days prior to the date the extension of time is requested; and
 - ii. The Town Engineer determines that the estimated costs for the Required Improvements (or in the case of substitute security, the remaining Required Improvements) do not exceed the fair market value of the real property against which the Lien Agreement is recorded, based on an appraisal conducted by an independent, licensed real estate appraiser not more than sixty (60) days prior to the date an extension of time is

requested. Subdivider shall furnish such appraisal to the Town at least forty-five (45) days prior to the date the extension of time is requested.

9. The Lien Agreement shall specify that no individual lots shall be sold while the Lien Agreement is in effect. However, fee title to the entire property encumbered by the Lien Agreement or to all lots designated on any individual final map which is encumbered by the Lien Agreement, may be sold in the aggregate to a single purchaser, provided that the proposed purchaser must, prior to or concurrent with assuming title to the property, either:
 - i. Execute a new Lien Agreement in a form acceptable to the Town which will encumber the property to be conveyed, specifying the respective obligations of the owners of the property subject to the original and new Lien Agreement.
 - ii. Deliver acceptable replacement security to the Town as set forth in Section 9.71.140.B.5.d.7 above as a condition to development of the property conveyed.
10. The Subdivider shall also be required to provide to the Town a cash deposit per recorded subdivision tract map in an amount established and revised from time-to-time by resolution of the Town Council and included in a schedule of fees, regardless of whether the project was subdivided by a single tract map or by multiple tract map recordings through phasing, for the purpose of reverting the property to acreage if the Subdivider breaches or is in default of the terms of the Lien Agreement. Reversion to acreage and the cash deposit by reason of default or breach of the Lien Agreement shall only be applicable to properties where none of the Required Improvements for which securities were provided have been installed and/or have been constructed. Any unused portion of the cash deposit shall be refunded to the Subdivider who made such cash deposit, following completion of the reversion to acreage. If the cost of the reversion to acreage exceeds the amount deposited per recorded subdivision tract map, the Subdivider shall pay such additional costs to the Town prior to recordation of the reversion to acreage map.
11. The Lien Agreement shall only be released: (1) upon delivery to the Town of acceptable replacement security for such Lien Agreement prior to construction and issuance of permits as set forth in Section 9.71.140.B.5.d.7 above; (2) to facilitate a sale as specified in Section 9.71.140.B.5.d.9 above; or (3) upon recordation of a reversion to acreage map.
12. Under no circumstances shall any Lien Agreement compel the Town to construct the Required Improvements, any remaining Required Improvements and/or Other Improvements.
13. Sunset Provision. Section 9.71.140.B.5.d shall remain in effect only until Feb XX, 2024 and as of that date is repealed, unless a later-enacted ordinance, that becomes effective on or before Feb XX, 2024 deletes or extends that date. In the event Section 9.71.140.B.5.d sunsets, any Lien Agreements entered into prior to the sunset date shall remain subject to the provisions of Section 9.71.140.B.5.d as it existed at the time such Lien Agreements were entered, and such provisions

shall continue to govern any such Lien Agreements until the date they are released by the Town.”

NOTICING

Development Code Amendment No. 2017-003 was advertised as a public hearing in the Apple Valley News newspaper on December 8, 2017.

ENVIRONMENTAL REVIEW

Staff has determined that the project is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3) because the Ordinance relates to implementation of provisions of the Subdivision Map Act and is not a project as defined in Section 15378 of the CEQA Guidelines and will not result in a direct or reasonably foreseeable indirect physical change in the environment,

RECOMMENDATION

Following receipt of public input and discussion by the Commission, it is recommended that the Commission move to approve Planning Commission Resolution No. 2017-004, forwarding a recommendation that the Town Council amend Title 9 “Development Code” of the Town of Apple Valley Municipal Code as outlined within the staff report.

Attachment:
Planning Commission Resolution No. 2017-004

PLANNING COMMISSION RESOLUTION NO. 2017-004

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL ADOPT DEVELOPMENT CODE AMENDMENT NO. 2017-003 AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY AMENDING SECTION 9.71.140 OF CHAPTER 9.71 RELATING TO THE TOWN’S ACCEPTANCE OF LIEN AGREEMENTS AS SECURITIES FOR SUBDIVISION IMPROVEMENT AGREEMENTS.

WHEREAS, the Subdivision Map Act, California Government Code section 66410 *et seq.* (the “Act”), gives authority to cities to adopt ordinances permitting lien agreements in lieu of other forms of security based upon a finding that it would not be in the public interest to require the installation of the required improvements sooner than two years after the recordation of a subdivision map; and

WHEREAS, on December 8, 2017, Development Code Amendment No. 2017-003 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

WHEREAS, Staff has determined that the project is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3) because the Ordinance relates to implementation of provisions of the Subdivision Map Act and is not a project as defined in Section 15378 of the CEQA Guidelines and will not result in a direct or reasonably foreseeable indirect physical change in the environment, and

WHEREAS, on December 20, 2017 the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised the public hearing on Development Code Amendment No. 2017-003, receiving testimony from the public; and

WHEREAS, Development Code Amendment No. 2017-003 is consistent with Title 9 “Development Code” of the Municipal Code of the Town of Apple Valley and shall promote the health, safety and general welfare of the citizens of the Town of Apple Valley.

WHEREAS, the amendment to the Town of Apple Valley’s Municipal Code will allow the use of lien agreements as securities for subdivision improvement agreements in accordance with California Government Code section 66499(a)(4).

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

Section 1. Find that the changes proposed by Development Code Amendment No. 2017-003 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

Section 2. The project is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3) because the Ordinance relates to implementation of provisions of the Subdivision Map Act and is not a project as defined in Section 15378 of the CEQA Guidelines and will not result in a direct or reasonably foreseeable indirect physical change in the environment.

Section 3. Subdivision d is hereby added to Section 9.71.140.B.5 of Chapter 9.71 of the Town of Apple Valley Municipal Code to read in full as set forth below:

“d. Lien Agreements in compliance with the following terms:

1. The Subdivider/property owner (“Subdivider”) may enter into an agreement with the Town to construct in the future the public portions of the subdivision improvements required by the map conditions of approval, as determined by the Town Engineer, including, but not limited to: master planned or "missing link" streets, drainage and sewer improvements, community facilities, off-site improvements, fire access, fire flow and traffic signals (hereinafter “Required Improvements”) and securing such performance by granting the Town a lien on the real property to be divided. Such agreements shall be known as “Lien Agreements.” The use of Lien Agreements shall only be allowed if all requirements in this subdivision B.5.d of this Section 9.71.140 are satisfied.
2. California Government Code section 66499(a)(4) authorizes the Town to enter into Lien Agreements if the Town Council finds that it would not be in the public interest to require the installation of the Required Improvements sooner than two (2) years after the recordation of the map.
3. Where the Town Council finds it would not be in the public interest to require the installation of the Required Improvements sooner than two (2) years after recordation of the map, the Subdivider may execute a Lien Agreement with the Town at the time the Subdivider enters into the improvement agreement specified in Section 9.71.140.B.3 ("Subdivision Improvement Agreement") of this Chapter 9.71.
4. At the sole discretion of the Town, a Lien Agreement may be used to substitute an existing security furnished under Section 9.71.140.B.5 for Required Improvements under a previously-executed Subdivision Improvement Agreement, if: (1) no activity for the subdivision has transpired; (2) no inspections have occurred; (3) no permits for construction of improvements have been issued within one year of the recordation of the subdivision map; and (4) upon a finding by the Town Council that it would not be in the public interest to require the installation of the Required Improvements sooner than two years after the recordation of the map.
 - i. The Town will not accept a Lien Agreement from any Subdivider, either at the time of execution of the Subdivision Improvement Agreement, or as a substitute for existing security, if: (1) any individual lots have been sold; (2) any construction permits, including but not limited to any grading or building permits, have been issued on any of the property; or (3) construction of any of the Required Improvements has begun.

- ii. Notwithstanding the provisions of Subdivision 140.B.5.d.4.i above, the Town may accept a Lien Agreement from a Subdivider as a substitute for an existing security if grading has commenced on the land divided, so long as the grading is in strict accordance with a valid grading permit and all the following conditions are met:
 - (1) There is no need for the Town to construct the Required Improvements if the Subdivider's project is abandoned or delayed for any period of time;
 - (2) The grading has no effect on the use, operation and maintenance of existing streets or highways, public or private;
 - (3) The grading has not caused the modification or closure of any public access points, existing streets or highways, public or private;
 - (4) Additional drainage improvements and/or erosion controls are not necessary and/or installed in the road right-of-way due to the grading;
 - (5) Delay of the construction of the Subdivider's Required Improvements do not affect or delay the improvements of an adjacent Subdivider who has already commenced work on his/her Required Improvements;
 - (6) The completion of any public improvements are not required by the Town's general plan circulation element, master plan of drainage, master sewer plan or master water plan or for any other reason for the purposes of preserving public health, safety or welfare;
 - (7) The Subdivider provides a separate security as specified in Section 9.71.140.B.5 above, for the maintenance of the graded land, including without limitation, dust control, erosion control, fencing, and any other maintenance as required by the Town; and
 - (8) In the case that any individual lots have been sold, at the discretion of the Town and only after the Town has performed a comprehensive review of the development (which may include approval of a construction phasing plan), completion of Required Improvements to serve the individual lots as determined by the Town Engineer and other requirements and conditions to be met prior to acceptance of the Lien Agreement.
 - iii. Lien Agreements used to substitute for existing security shall be recorded against all lots that have not passed a final inspection and for which all required associated improvements, as determined by the Town Engineer, have not been completed ("Undeveloped Lots"). Such Lien Agreements shall also meet all of the requirements set forth in Sections 9.71.140.B.5.d.5 through 9.71.140.B.5.d.13 below.
5. Lien Agreements, including those used to substitute for existing security under Section 9.71.140.B.5.d.4, above, shall:

- i. Be allowed only where the Subdivider provides a title insurance policy and title report from a title company approved by the Town documenting that: (1) the Subdivider is the record owner of the entire property to be subdivided (or in the case of a substitute security, documenting that the Subdivider is the record owner of all Undeveloped Lots) against which the Lien Agreement is to be recorded; and (2) such aforementioned property is not encumbered by any mortgages, deeds of trust, or liens. The title insurance policy and title report shall be issued forty-five (45) days prior to the execution of the Lien Agreement.
- ii. Be in a form acceptable to and approved by the Town Manager and the Town Attorney.
- iii. Be executed by the Mayor on behalf of the Town, and by all current record owner(s) of the property to be divided (or in the case of a substitute security, all owners of the Undeveloped Lots), as evidenced by the title insurance policy and report specified in Section 9.71.140.B.5.d.5.i, above.
- iv. Be used only to secure future improvements that would be required for any final map and/or when a Subdivider would be required by Chapter 9.71 to construct, or agree to construct, the Required Improvements for a subdivision.
- v. Contain a detailed itemization of the Required Improvements (or in the case of a substitute security, any remaining Required Improvements) and an engineer's estimate of costs to construct same, as approved by the Town Engineer, and specify that the Subdivider's obligation, and that of Subdivider's successors in interest, extends to the actual cost of construction of the aforementioned improvements if such costs exceed the estimate.
- vi. Be allowed if the Town Engineer determines the estimated costs to construct the Required Improvements (or in the case of substitute security, the remaining Required Improvements) do not exceed the fair market value of the real property against which the Lien Agreement is to be recorded, based on an appraisal conducted by an independent, licensed real estate appraiser not more than sixty (60) days prior to the date any Lien Agreement is entered. Subdivider shall furnish such appraisal to the Town at least forty-five (45) days prior to the date any Lien Agreement is entered.
- vii. Contain a legal description of the entire real property against which the Lien Agreement is being recorded as security for the Required Improvements (or in the case of substitute security, as security for the remaining Required Improvements).
- viii. Be recorded with the San Bernardino County Recorder against the entire property to be divided by the map (or in the case of substitute security, against all Undeveloped Lots). The recorded Lien Agreement shall be indexed in the Grantor index to the names of all record owners of the real property as specified on the map and/or in Section 9.71.140.B.5.d.5.i above, and in the Grantee index to the Town.

- ix. Be approved concurrently with the approval of the final map and the Subdivision Improvement Agreement executed by Subdivider, with a note of the Lien Agreement's existence placed on the map, except where the Lien Agreement is being used as substitute security after final map approval under Section 9.71.140.B.5.d.4 above, in which case the Lien Agreement shall be signed and acknowledged by all parties having any record title interest in the property against which the Lien Agreement is being recorded, as prescribed by California Government Code section 66436, consenting to the subordination of their interests to the Lien Agreement.
 - x. Require the Subdivider to pay an application fee to the Town for the processing of the Lien Agreement in an amount established and revised from time-to-time by resolution of the Town Council and included in a schedule of fees.
 - xi. Be recorded concurrently with the Map.
6. From the time of recordation of the Lien Agreement, a lien shall attach to the real property described therein and shall have the priority of a judgment lien in an amount necessary to complete the Required Improvements (or in the case of substitute security, the remaining Required Improvements) and under no circumstances shall the Town be obligated to agree to subordinate the lien.
7. The Lien Agreement shall provide that:
- i. The Subdivider must deliver acceptable replacement security to the Town in the types and amounts specified in Sections 9.71.140.B.5.a. through 9.71.140.c. and Section 9.71.140.B.7 and approved by the Town Council in place of the Lien Agreement and commence construction of the Required Improvements and any other improvements imposed as map conditions of approval (hereinafter "Other Improvements") within three (3) years following recordation of the map; or
 - ii. In the case of a substitute security, the Subdivider must deliver acceptable replacement security to the Town (in the types and amounts specified in Sections 9.71.140.B.5.a. through 9.71.140.c. and Section 9.71.140.B.7 and approved by the Town Council) in place of the Lien Agreement and commence construction of the remaining Required Improvements and Other Improvements within three (3) years following recordation of the Lien Agreement; and
 - iii. Once the Lien Agreement is recorded, the Town shall not issue any development or construction permits for the property subject to the Lien Agreement until the aforementioned delivery of acceptable replacement security to the Town has occurred.
8. The time for delivery of acceptable replacement security to the Town and commencement of construction as specified in Sections 9.71.140.B.5.d.7.i and 9.71.140.B.5.d.7.i above, may be extended once for an additional three (3) year

period as approved by the Town Engineer or his designee. A Lien Agreement may therefore only be in effect for a total of six (6) years. In order to receive an extension of time under this Subsection, both of the following conditions must be met:

- i. The Subdivider shall provide a title insurance policy and title report from a title company approved by the Town documenting that: (i) the Subdivider is the record owner of the entire subdivided property against which the Lien Agreement is currently recorded as security (or in the case of a substitute security, documenting that the Subdivider is the record owner of all Undeveloped Lots against which the Lien Agreement has been recorded); and (ii) such subdivided property or Undeveloped Lots are not encumbered by any mortgages, deeds of trust, or liens. The title insurance policy and title report shall be issued forty-five (45) days prior to the date the extension of time is requested; and
 - ii. The Town Engineer determines that the estimated costs for the Required Improvements (or in the case of substitute security, the remaining Required Improvements) do not exceed the fair market value of the real property against which the Lien Agreement is recorded, based on an appraisal conducted by an independent, licensed real estate appraiser not more than sixty (60) days prior to the date an extension of time is requested. Subdivider shall furnish such appraisal to the Town at least forty-five (45) days prior to the date the extension of time is requested.
9. The Lien Agreement shall specify that no individual lots shall be sold while the Lien Agreement is in effect. However, fee title to the entire property encumbered by the Lien Agreement or to all lots designated on any individual final map which is encumbered by the Lien Agreement, may be sold in the aggregate to a single purchaser, provided that the proposed purchaser must, prior to or concurrent with assuming title to the property, either:
 - i. Execute a new Lien Agreement in a form acceptable to the Town which will encumber the property to be conveyed, specifying the respective obligations of the owners of the property subject to the original and new Lien Agreement.
 - ii. Deliver acceptable replacement security to the Town as set forth in Section 9.71.140.B.5.d.7 above as a condition to development of the property conveyed.
10. The Subdivider shall also be required to provide to the Town a cash deposit per recorded subdivision tract map in an amount established and revised from time-to-time by resolution of the Town Council and included in a schedule of fees, regardless of whether the project was subdivided by a single tract map or by multiple tract map recordings through phasing, for the purpose of reverting the property to acreage if the Subdivider breaches or is in default of the terms of the Lien Agreement. Reversion to acreage and the cash deposit by reason of default or breach of the Lien Agreement shall only be applicable to properties where none of the Required Improvements for which securities were provided have been installed and/or have been constructed. Any unused portion of the cash deposit

shall be refunded to the Subdivider who made such cash deposit, following completion of the reversion to acreage. If the cost of the reversion to acreage exceeds the amount deposited per recorded subdivision tract map, the Subdivider shall pay such additional costs to the Town prior to recordation of the reversion to acreage map.

11. The Lien Agreement shall only be released: (1) upon delivery to the Town of acceptable replacement security for such Lien Agreement prior to construction and issuance of permits as set forth in Section 9.71.140.B.5.d.7 above; (2) to facilitate a sale as specified in Section 9.71.140.B.5.d.9 above; or (3) upon recordation of a reversion to acreage map.
12. Under no circumstances shall any Lien Agreement compel the Town to construct the Required Improvements, any remaining Required Improvements and/or Other Improvements.
13. Sunset Provision. Section 9.71.140.B.5.d shall remain in effect only until February XX, 2024 and as of that date is repealed, unless a later-enacted ordinance, that becomes effective on or before February XX, 2024 deletes or extends that date. In the event Section 9.71.140.B.5.d sunsets, any Lien Agreements entered into prior to the sunset date shall remain subject to the provisions of Section 9.71.140.B.5.d as it existed at the time such Lien Agreements were entered, and such provisions shall continue to govern any such Lien Agreements until the date they are released by the Town.”

Approved and Adopted by the Planning Commission of the Town of Apple Valley this 20th day of December, 2017.

Chairman Mark Shoup

ATTEST:

I, Yvonne Rivera, Secretary to the Planning Commission of the Town of Apple Valley, California, do hereby certify that the foregoing resolution was duly and regularly adopted by the Planning Commission at a regular meeting thereof, held on the 20th day of December, 2017 by the following vote, to-wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Ms. Yvonne Rivera, Planning Commission Secretary