



Get a Slice of the Apple.

**TOWN OF APPLE VALLEY
PLANNING COMMISSION AGENDA**

WEDNESDAY, JUNE 19, 2019

Regular Meeting 6:00 p.m.

Town Council Chambers
14955 Dale Evans Parkway

PLANNING COMMISSION MEMBERS

Jason Lamoreaux, Chairman
Bruce Kallen, Vice-Chairman
B. R. "Bob" Tinsley, Commissioner
Joel Harrison, Commissioner
Mike Arias Jr., Commissioner

PLANNING DIVISION OFFICE: (760) 240-7000 Ext. 7200
www.AVPlanning.org

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



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**TOWN OF APPLE VALLEY
PLANNING COMMISSION AGENDA
REGULAR MEETING
WEDNESDAY JUNE 19, 2019 – 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: Tinsley _____; Arias _____; Harrison _____
Vice-Chairman Kallen _____ and Chairman Lamoreaux _____

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 March 20, 2019.

PUBLIC COMMENTS

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

PUBLIC HEARING ITEMS

2. **Conditional Use Permit No. 2019-002** A request to approve a Conditional Use Permit to operate an automobile repair service facility within an existing 20,460 square foot industrial building. The project will occupy 2,560 square feet for auto repairs and office space. The site is 1.5 acres in size and is located within the Service Commercial (C-S) zoning designation.

APPLICANT: Mr. Eric Amling, Village Automotive

LOCATION: 22421 Powhatan Road, Suite 7; APN 3087-392-39

ENVIRONMENTAL

DETERMINATION: Pursuant to the Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15301 Class 1, the proposed request is Exempt from further environmental review.

CASE PLANNER: Pam Cupp, Associate Planner

RECOMMENDATION: Approval

3. **Variance No. 2019-002** A request for approval to allow a proposed drive-thru lane adjacent to residential to operate from 4:30 a.m. to 11:00 p.m. where the Development Code specifies hours of operation for a drive-thru adjacent to residential to operate from 6:00 a.m. to 10:00 p.m.

APPLICANT: Mr. Ash Pathi

LOCATION: 18195 Highway 18; APN 0473-112-10, -11.

ENVIRONMENTAL

DETERMINATION: Pursuant to the Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15305, Class 5, the proposed request is Exempt from further environmental review.

CASE PLANNER: Carol Miller, Assistant Director of Community Development

RECOMMENDATION: Approval

4. **General Plan Amendment No. 2019-001 and Development Code Amendment No. 2019-004.** An amendment to the text of the Land Use Element of the General Plan removing the requirement for a minimum project size of 10 acres within the Regional Commercial (C-R) land use definition and an amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code that will amend Table 9.35.040-A "Site Development Standards" to reduce the minimum lot size within Regional Commercial (C-R) zoning designation from eight (8) acres to 10,000 square feet.

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

CASE PLANNER: Lori Lamson, Assistant Town Manager

RECOMMENDATION: Adopt Planning Commission Resolution No. 2019-004.

5. **Development Code Amendment No. 2019-005** The Planning Commission will be considering an amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code to modify various sections relating to the following:

1. Allow administrative review of all new development that is less than 100,000 square feet in size.
2. Remove Use Permit requirements as it pertains to physical development and replace it with a Development Permit.
3. Expand the lapse of time for a Variance to two (2) years and allow for extensions of time for Variance and Deviation Permits.
4. Modify language to better clarify the extension of time process for Use, Development, Variance and Deviation Permits.
5. Add language to the Development Code relating to the Development Advisory Board.
6. Remove Chapter 9.66 "Entertainment Overlay" and associated references.
7. Reduce the number of Findings required to approve a Use or Development Permit.

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: Pam Cupp, Associate Planner

RECOMMENDATION: Adopt Planning Commission Resolution No. 2019-005

OTHER BUSINESS

6. A request to consider a General Plan Conformity Finding for the Town's Capital Improvement Program (CIP) for fiscal year 2019-2020.

PLANNING COMMISSION COMMENTS

STAFF COMMENTS

ADJOURNMENT

The Planning Commission will adjourn to its next regularly scheduled Planning Commission meeting on July 17, 2019.

MINUTES

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

March 20, 2019

CALL TO ORDER

Chairman Tinsley 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; Mike Arias; Commissioner Joel Harrison
Chairman B. R. "Bob" Tinsley.

Absent: Vice-Chairman Jason Lamoreaux

Staff Present

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

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Commissioner Joel Harrison.

ELECTION OF NEW OFFICERS:

Commissioner Kallen made a motion, seconded by Chairman Tinsley, that Vice-Chairman Lamoreaux be nominated as Chairman of the Apple Valley Planning Commission.

ROLL CALL VOTE

Yes: Commissioner Kallen
Commissioner Arias
Commissioner Harrison
Chairman Tinsley

Noes: None

Abstain: None

Absent: Vice-Chairman Lamoreaux

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

Commissioner Arias made a motion, seconded by Chairman Tinsley, that Commissioner Kallen be nominated as Vice-Chairman of the Apple Valley Planning Commission.

ROLL CALL VOTE

Yes: Commissioner Arias
Chairman Tinsley
Commissioner Harrison

Noes: None
Abstain: Commissioner Kallen
Absent: Vice-Chairman Lamoreaux
The motion carried by a 3-0-1-1 vote

RECESS FOR REORGANIZATION

Vice-Chairman Kallen reconvened the meeting of the Planning Commission at 6:06 p.m.

APPROVAL OF MINUTES

1. Approval of Minutes for the regular meeting of February 6, 2019.

Motion by Commissioner Harrison, and second by Vice-Chairman Kallen to approve the minutes of February 6, 2019 with the following correction to Page 7:

Change the Motion to adjourn the meeting to read:

“Motion by Commissioner Harrison, Second by Commissioner Arias, and unanimously carried, to adjourn the meeting of the Planning Commission at 7:01pm to its next regularly scheduled meeting on March 20, 2019.”

ROLL CALL VOTE

Yes: Commissioner Harrison
Vice-Chairman Kallen
Commissioner Arias
Noes: None
Abstain: Commissioner Tinsley
Absent: Chairman Lamoreaux
The motion carried by a 3-0-1-1 vote

PUBLIC COMMENTS

None.

PUBLIC HEARINGS

2. **Appeal No. 2019-002.** The applicant is requesting to change the face of an existing, legal nonconforming, thirty-six (36)-square foot roof-mounted can sign to a digital advertising display.

APPELLANT: Mr. Ralph Dickinson

Vice-Chairman Kallen opened the public hearing at 6:08pm

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

Commissioner Arias announced that he had a potential conflict of interest regarding this item.

COMMISSIONER ARIAS RECUSED HIMSELF FROM THE DIAS AT 6:10PM.

Vice-Chairman Kallen reconvened the meeting of the Planning Commission at 6:10pm.

Commissioner Harrison asked if the B of A sign referenced in the letter from the applicant was permitted. Ms. Cupp stated that sign is legal non-conforming sign and has been in place before the Town incorporated and may be refaced.

Commissioner Tinsley recalled that some years ago Planning Commission and some members of Council requested that we make some exceptions to the Village area due to unique location and situation and make special accommodations to promote growth. Ms. Cupp stated that no special accommodations and that the goal is to eventually eliminate the non-conforming signs.

Vice-Chairman Kallen asked if repairs were needed to be made on existing signs would that be allowed. Ms. Cupp stated repairs were allowed as long as the sign was not changed to digital advertising.

Vice-Chairman Kallen also asked if signs were on list of items to discuss at the Joint Town Council/Planning Commission Meeting. Ms. Cupp stated that signs were not on the list at this time.

Mr. Ralph Dickinson, Applicant discussed making his digital sign smaller from 36' to 30' so, it could be approved. Mr. Dickinson stated that the Development Code was very vague when it came to monument signs. Mr. Dickinson felt an obligation to improve the look of the Village and also help promote different events and business in the Village with an average of 32,000 cars passing thru daily.

Thomas Rice, Town Attorney stated staff was correct in their findings and recommended discussing this topic at the Joint Town Council/Planning Commission and discuss making changes to the Code.

Commissioner Tinsley asked staff if a recommendation could be made to help the applicant with legal non-conforming sign, Ms. Cupp stated the applicant needed to resubmit a new sign permit application that meets the Development Code.

PUBLIC COMMENT

Vice-Chairman Kallen closed the public hearing at 6:28 p.m.

Discussion ensued regarding the sign code and the need to revisit the current standards.

Vice-Chairman Kallen reopen the public hearing at 6:44pm to allow Mr. Dickenson to respond to the discussion of the Planning Commission. Mr. Dickenson was in agreement to make the changes to his sign and resubmit a new application.

Vice-Chairman closed the Public Hearing at 6:45pm.

MOTION

Motion by Commissioner Tinsley, seconded by Commissioner Harrison, that the Planning Commission move to deny Appeal No.2019-002:

ROLL CALL VOTE

Yes: Commissioner Tinsley
Commission Harrison
Vice-Chairman Kallen
Noes: None
Abstain: Commissioner Arias
Absent: Chairman Lamoreaux
The motion carried by a 3-0-1-1 vote

Commissioner Arias returned to the dais at 6:45pm.

A SHORT RECESS WAS CALLED AT 6:45

Vice-Chairman Kallen reconvened the meeting of the Planning Commission at 6:50 p.m.

- 3. Temporary Use Permit 2019-002.** The applicant is requesting approval of a Temporary Use Permit to allow the temporary use of an existing vacant commercial building (former Lowe's) by allowing the indoor storage of recreational vehicles and water craft and creating two mini-storage areas within the former garden center and rear staging/loading area. No outdoor storage is proposed.

APPLICANT: Joseph Michael

Vice-Chairman Kallen opened the public hearing at 6:50pm

Carol Miller, Assistant Director of Community Development presented the staff the report as filed with the Planning Division.

Commissioner Harrison asked if there would be any personnel monitoring the facility.

Ms. Miller stated customers will have a code or keys to gain access the building. Commissioner Harrison also asked about the boxes in the plans in the garden area and questioned if they were temporary storage units. Ms. Miller stated they were temporary metal modular units and distributed a handout that was provided by the Applicant with additional pictures.

Vice-Chairman Kallen asked how long the temporary use of this building would go for. Ms. Miller stated the TUP is valid for 10 years with Three - One-year extensions and the Applicant would then be allowed to come back and apply for another TUP that would allow him another 10 years.

Chairman Kallen asked the Applicant if he agreed with all the Conditions of Approval.

Mr. Michael stated he was in agreement with all the Conditions of Approval.

MOTION

Motion by Vice-Chairman Kallen, seconded by Commissioner Tinsley, that the Planning Commission move to approve the Temporary Use Permit 2019-002.

1. Find that, pursuant to the California Environmental Quality Act (CEQA), Section 15301, 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 Temporary Use Permit No. 2019-002.
3. Adopt the Findings as provided in the staff report and Temporary Use Permit No. 2019-002.
4. Direct staff to file the Notice of Exemption.

ROLL CALL VOTE

Yes: Vice-Chairman Kallen
Commissioner Tinsley
Commission Harrison
Commissioner Arias
Noes: None
Abstain: None
Absent: Chairman Lamoreaux
The motion carried by a 4-0-0-1 vote

4. **Development Code Amendment No. 2019-002.** A request for an amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code that will amend Chapters 9.35 "Commercial and Office Districts", and 9.37 "Commercial and Office Districts Design Standards" related to the use of exposed metal.

Vice-Chairman Kallen opened the public hearing at 7:03pm

Carol Miller, Assistant Director of Community Development presented the staff the report as filed with the Planning Division.

Vice-Chairman Kallen stated it was a good idea to make the changes to the Development Code so that projects can be expedited but wanted to know if there could be a certain percentage of metal, then it should come to Planning Commission for approval.

Ms. Miller stated this change would only allow staff approval if metal is only as an architectural feature and if staff did not feel comfortable making an approval, then projects would be referred to the Planning Commission.

Ms. Miller gave examples of existing architectural panels in Town.

Commissioner Harrison was also in agreement, but wanted to make the recommendation to changes the language in section 9.35.120 Pre-Fabricated Structures, section B.7 to read as follows

The use of metal exteriors when staff or the Planning Commission determines, during a project's Development Permit or Conditional Use Permit review, may include exposed metal when used as an architectural feature or design element which provides a varying material to the buildings design. Metal siding that replicates other material, such as embossed stucco, wood, stone, tile, or replicates the appearance of traditional shiplap or board and batten may also be used. The proposed structure shall also have an appearance emulating and simulating the color, texture and appearance of other structures within the surrounding area or where it can be clearly demonstrated that the proposed structure is an enhancement to the surrounding area. A structure which proposes an exposed metal exterior as the primarily building siding shall require the application to be approved by the Planning Commission. Textured panels may not be corrugated or metal seam.

And Section 9.37.080.F "Architecture" of the Code by amending Subsection "F.2" to read as follows:

New development shall be encouraged to utilize adobe, stucco, smooth plasters, earthen color block, natural stone, wood and terra cotta tile as the dominant building materials in response to the Town's desert environment. The use of metal on the exterior of any portion of a structure may include exposed metal when used as an architectural feature or design element which provides a varying material to the building. Metal siding that replicates other material, such as embossed stucco finish, wood, stone, tile, or replicates the appearance of traditional shiplap or board and batten may be used. The proposed structure shall also have an appearance emulating and simulating the color, texture and appearance of other structures within the surrounding area or where it can be clearly demonstrated that the proposed structure is an enhancement to the surrounding area. A structure which proposes an exposed metal exterior as the primarily building siding shall require the application to be approved by the Planning Commission. Textured panels may not be corrugated or metal seam.

Ms. Miller agreed with Commissioner Harrison's recommendations.

There being no requests to speak, Vice-Chairman Kallen closed the public hearing at 7:16pm.

Commissioner Tinsley asked if staff could keep the Planning Commission in the loop as these types of projects came up since there is new products coming out that simulate metal that they may not be aware of.

MOTION

Motion by Commissioner Arias seconded by Commissioner Harrison, that the Planning Commission move to approve the Development Code Amendment No. 2019-002 as amended.

ROLL CALL VOTE

Yes: Vice-Chairman Kallen
Commissioner Tinsley

Commission Harrison
Commissioner Arias
Noes: None
Abstain: None
Absent: Chairman Lamoreaux
The motion carried by a 4-0-0-1 vote

5. **Specific Plan 2005-001 Amendment No. 7.** An amendment to the North Apple Valley Industrial Specific Plan (NAVISP) Section III "Development Standards and Guidelines" by amending the Pre-Fabricated/Metal Building standards.

Vice-Chairman Kallen opened the public hearing at 7:31pm.

Carol Miller, Assistant Director of Community Development presented the staff the report as filed with the Planning Division.

There being no requests to speak, Vice-Chairman Kallen closed the public hearing at 7:34pm.

MOTION

Motion by Commissioner Arias seconded by Commissioner Tinsley, that the Planning Commission move to approve the Development Code Amendment No. 2019-002 as amended.

ROLL CALL VOTE

Yes: Vice-Chairman Kallen
Commissioner Tinsley
Commission Harrison
Commissioner Arias
Noes: None
Abstain: None
Absent: Chairman Lamoreaux
The motion carried by a 4-0-0-1 vote

OTHER BUSINESS

None.

PLANNING COMMISSION COMMENTS

Commissioner Arias commented on attending the Planning Commission Academy Commissioner Harrison commented on attending the Planning Commission Academy.

Vice-Chairman requested a list of items that will be discussed at the Joint Meeting.

STAFF COMMENTS

Carol Miller, Assistant Director of Community thanked Commissioner that attended the Planning Commission Academy and hoped they found the Academy resourceful.

ADJOURNMENT

Motion by Commissioner Harrison, second by Commissioner Tinsley, unanimously carried, to adjourn the meeting of the Planning Commission at 7:00 p.m. to the its regularly scheduled meeting of April 19, 2019.

Respectfully Submitted by:

Maribel Hernandez
Planning Commission Secretary

Approved by:

Vice-Chairman Bruce Kallen



Planning Commission Agenda Report

DATE: June 19, 2019 Item No. 2

CASE NUMBER: Conditional Use Permit No. 2019-002

APPLICANT: Mr. Eric Amling, Village Automotive

PROPOSAL: A request to approve a Conditional Use Permit to operate an automobile repair service facility within an existing 20,460 square foot industrial building. The project will occupy 2,560 square feet for auto repairs and office space. The site is 1.5 acres in size and is located within the Service Commercial (C-S) zoning designation.

LOCATION: 22421 Powhatan Road, Suite 7; APN 3087-392-39

ENVIRONMENTAL DETERMINATION: Pursuant to the Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15301 Class 1, the proposed request is Exempt from further environmental review.

CASE PLANNER: Ms. Pam Cupp, Associate Planner

RECOMMENDATION: Approval

PROJECT AND SITE DESCRIPTION:

- A. Project Size:
The project site is 1.5 acres in size and improved with a 20,400 square foot industrial building.
- B. General Plan Designations:
 - Site - C-S, Service Commercial
 - North - C-S, Service Commercial
 - South - C-S, Service Commercial
 - East - C-S, Service Commercial
 - West - C-S, Service Commercial
- C. Zoning/Existing Use:
 - Site - C-S, Service Commercial, Industrial Building and uses
 - North - C-S, Service Commercial, Industrial Building and uses
 - South - C-S, Service Commercial, Vacant
 - East - C-S, Service Commercial, Vacant
 - West - C-S, Service Commercial, Industrial Building and uses
- D. Parking Calculations:

Unit Number	Use	Square Footage	Parking Ratio	Number of Spaces Required	Number of Spaces Provided
1,5,9	Office	5,110	1/300 sq. ft	17	17
2	Machine Shop	2,560	3/1000 sq. ft.	8	8
3,4	Contractor Storage	3,835	1/500	8	8
6	Storage Auto Repair	2,560	1/500	5	5
7	Auto Repair	2,560	1/400	6	6
8	Tool Repair	2,560	3/1000	8	8
10	Storage	1,275	3/1000	3	3
	Total	20,460		55	61

The project site was approved as an industrial building with uses unspecified. Parking for this building was based upon industrial uses at a ratio of three (3) spaces per 1,000 square feet of floor area. As illustrated above, required parking is based upon the existing uses. The project site exceeds its minimum required parking spaces and is in conformance with the Development Code.

ANALYSIS:

A. General:

Pursuant to the Development Code, Planning Commission approval of a Conditional Use Permit is required for all vehicle repair facilities within any commercial zone. The Conditional Use Permit process allows the Commission an opportunity to consider certain uses which may have potential adverse impacts upon surrounding property or the general public. The applicant, Village Automotive, is requesting Planning Commission review and approval of a Conditional Use Permit to operate an automobile repair facility. Village Automotive will offer bumper to bumper repairs and specialize in suspension work.

The applicant proposes to occupy Unit 7, which has a total floor area of 2,560 square feet, for auto repairs. Unit 7 consists of two (2) large receiving doors, one (1) pedestrian door, two (2) car lifts, office space, work benches and restroom facilities. The business is owner-operated at this time and is anticipating a need for up to three (3) additional employees in the near future. The automotive repair facility will operate between the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday and 10:00 a.m. to 3:00 p.m. Saturdays. The applicant will also occupy Unit 6 (2,560 square feet) for storage and office purposes only. Storage and office uses are permitted by right of zone; therefore Unit 6 is not part of this Conditional Use Permit review.

The industrial/office complex provides a total of 20,460 square feet of floor space and is divided into ten (10) units. Other uses within the complex include a machine shop, warehouse storage, tool repair and general offices. The proposed auto repair use is compatible with existing businesses on the site. The available on-site parking meets the minimum required for all existing, proposed and future industrial uses on the project site.

The minimum number of parking spaces required for this business is six (6) and staff is recommending Condition No. P9 stating that the facility be limited to occupying six (6) parking spaces. These spaces shall be available for customers and staff and any extra spaces may be occupied with vehicles awaiting repair. Further, Condition P9 recommends that vehicles stored outdoors have a current registration and that vehicles may be parked for up to seven (7) consecutive days. Staff is also recommending Condition No. P10, which requires that all repairs be done within an enclosed building and P14 which prohibits vehicle from being displayed for sale upon the premises.

The proposed auto repair facility will include the use of oils, grease and disposal of waste products. Due to the nature of this type of business, the applicant is required to adhere to regulations and secure approval from the San Bernardino County Department of Environmental Health Services prior to obtaining a Certificate of Occupancy from the Town. In this respect, Condition No. P11 requires the applicant to file a State of California Business Contingency Plan with the San Bernardino County Department of Environmental Health Services prior to issuance of a Certificate of Occupancy.

B. Development Review

This project was not reviewed by the Development Advisory Board; however, project information was distributed and comments were requested from Town Divisions and affected agencies. All comments and recommended Conditions of Approval received from Town Divisions and local agencies are included in this report.

C. Environmental Assessment:

Pursuant to the Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15301, Class 1, the proposed request is Exempt from further environmental review.

D. Noticing:

The project was legally noticed in the Apple Valley News on June 7, 2019 and notices were mailed to all property owners within 300-feet of the project site.

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 specific Findings. The Findings, and a suggested comment to address each, are presented below:

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 auto-repair business is in compliance with the Development Code of the Town of Apple Valley and 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 property is approximately 1.5 acres in size and located along Powhatan Road, which has existing improvements and infrastructure to serve the proposed site. The proposal, with adherence to the recommended Conditions of Approval, will be compatible with the surrounding area.

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

Comment: The proposed auto-repair business will be compatible with surrounding uses. The proposed location is within an existing industrial building that has been developed with parking, access points and setbacks that are consistent with the C-S, Service Commercial, zoning designation. No changes to the site are proposed.

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 proposed auto-repair business is located within an existing industrial building that has existing services and utilities available for this proposal. No changes to the site are proposed nor will additional services be required.

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

Comment: The project will be located within an existing industrial building within the Service Commercial (C-S) zoning designation. The proposed auto repair facility is compatible with other uses within the building and upon surrounding properties.

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. The proposed project will be located along an improved local commercial road, which can accommodate traffic generated from the proposed use. The project has existing paved parking that meets the requirements as specified in the Development Code. In addition, the proposed project must adhere to the Conditions of Approval identified 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: The proposed auto-repair business will be located on Powhatan Road, which can accommodate traffic generated from the project site. 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 proposed auto repair facility will include the use of oils, grease and disposal of waste products. Due to the nature of this type of business, the applicant is required to adhere to regulations and secure approval from the San Bernardino County Department of Environmental Health Services.

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

Comment: The proposed project will not produce adverse impacts upon the site, nor the surrounding properties.

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 auto-repair business, and the recommended conditions under which it will be operated and maintained, will not be detrimental to the public health, safety or welfare, nor will it be materially injurious to properties or improvements in the vicinity. All activities associated with the auto-repair business will occur within an enclosed structure with limited outdoor vehicle storage. Hazard material handling must be conducted in a manner consistent with the rules and regulations of the Apple Valley Fire Protection District and the County of San Bernardino Environmental Health Services.

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

Comment: The proposed auto-repair business can operate 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 proposed auto-repair facility will be located within an existing, permitted industrial building. No modifications are proposed to the structure or 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: The proposed auto-repair facility will be located within an existing, permitted industrial building. No modifications are proposed to the structure or the site.

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 auto-repair facility will be located within an existing, permitted industrial building. No modifications are proposed to the structure or the site.

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 auto-repair facility will be located within an existing, permitted industrial building. No modifications are proposed to the structure or the site; however, the existing site has been designed to provide safe, on- and off-site circulation.

Recommendation:

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

1. Find that, pursuant to the California Environmental Quality Act (CEQA), Section No.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 and adopt the Findings.
3. Approve Conditional Use Permit No. 2019-002, subject to the attached Conditions of Approval.
4. Direct Staff to file the Notice of Exemption.

ATTACHMENTS:

1. Recommended Conditions of Approval
2. Site Plan
3. Floor Plan
4. Site Photos
5. Zoning/Location Map

TOWN OF APPLE VALLEY

RECOMMENDED CONDITIONS OF APPROVAL

Case No. Conditional Use Permit No. 2019-002

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 request for a time extension received, and applicable 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 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 filing of a Notice of Determination 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.
- P4. The approval of Conditional Use Permit No. 2019-002 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.
- P5. Parking requirements must be met and be in compliance with Town standards. All parking stalls shall be clearly striped and permanently maintained with double or hairpin lines.
- P6. Required parking spaces will be provided for the handicapped in accordance with Town standards and in accordance with Title 24 of the California Administrative Code. The handicapped spaces shall be located as close as practical to the entrance of the facility. Each space must be provided with access ramps and clearly marked in accordance with Title 24 of the California Administrative Code.
- P7. All signs shall have a separate permit and are subject to final approval by the Town of Apple Valley.
- P8. Lighting fixtures shall be of a type and be located in such a manner that no light or reflected glare is directed off-site and shall provide that no light is directed above a horizontal plane passing through the bottom of the fixture. All glare shall be directed onto the site and away from adjacent properties.

- P9. Parking spaces for this facility is limited to six (6) which includes employee and customer parking and any vehicles awaiting repair. All vehicles parked outdoors must be within approved parking spaces and have current registration and license plates. The outdoor storage/parking of vehicles is limited to seven (7) days per vehicle. Any additional storage of vehicles must occur within an enclosed building.
- P10. All repairs must be done within an enclosed building.
- P11. The applicant shall file a State of California Business Contingency Plan with the San Bernardino County Department of Environmental Health Services prior to issuance of a Certificate of Occupancy.
- P12. If hazardous substances are used and/or stored, a technical report, identifying any hazards presented by project must be mitigated. This report shall be prepared by a qualified person, firm, or corporation and submitted to the Building and Safety Division. This report shall also explain the proposed facility's intended methods of operation and list all of the proposed materials, their quantities, classifications, and the effects of any chemical (material) inter-mixing in the event of an accident or spill.
- P13. Outdoor storage of parts, tires, equipment, etc. is prohibited.
- P14. The display of vehicles intended for sale is prohibited.
- P15. This approval allows for vehicle repairs to occur within Unit 7 only. Future expansion to the repair facility will require an Amendment to Conditional Use Permit No. 2019-002.

Environmental and Regulatory Compliance Conditions of Approval

- EC1. Pursuant to AVMC § 8.19.020(a) et seq., the construction contractor shall complete and submit a Waste Management Plan (WMP), on a WMP form approved by the Town for this purpose as part of the application packet for the building or tenant improvement permit.
- EC2. Pursuant to AVMC § 8.19.050(a) et seq., and prior to the issuance of a Certificate of Occupancy, the contractor shall submit documentation proving that the project has met the diversion requirement. The diversion requirement shall be at least fifty (50) percent of the total C&D debris generated by the project via reuse or recycling.
- EC3. As of January 1, 2019, businesses that generate four (4) cubic yards or more of commercial solid waste per week shall arrange for organic waste recycling services with limited exceptions. Contact Burrtec Waste Industries at (760) 245-8607 for further information.
- EC4. If waste tires are to be generated at the facility, the operator shall comply with all storage and disposal provisions within Chapter 16 of the Public Resources Code, commencing with section 42800.

Public Works Conditions of Approval

PW1. This property is connected to the Town Sewer System. Sewer connection fees are required if any new plumbing fixtures are being installed or if any existing fixtures were not previously permitted. Plans must be approved by the Town of Apple Valley Public Works Department.

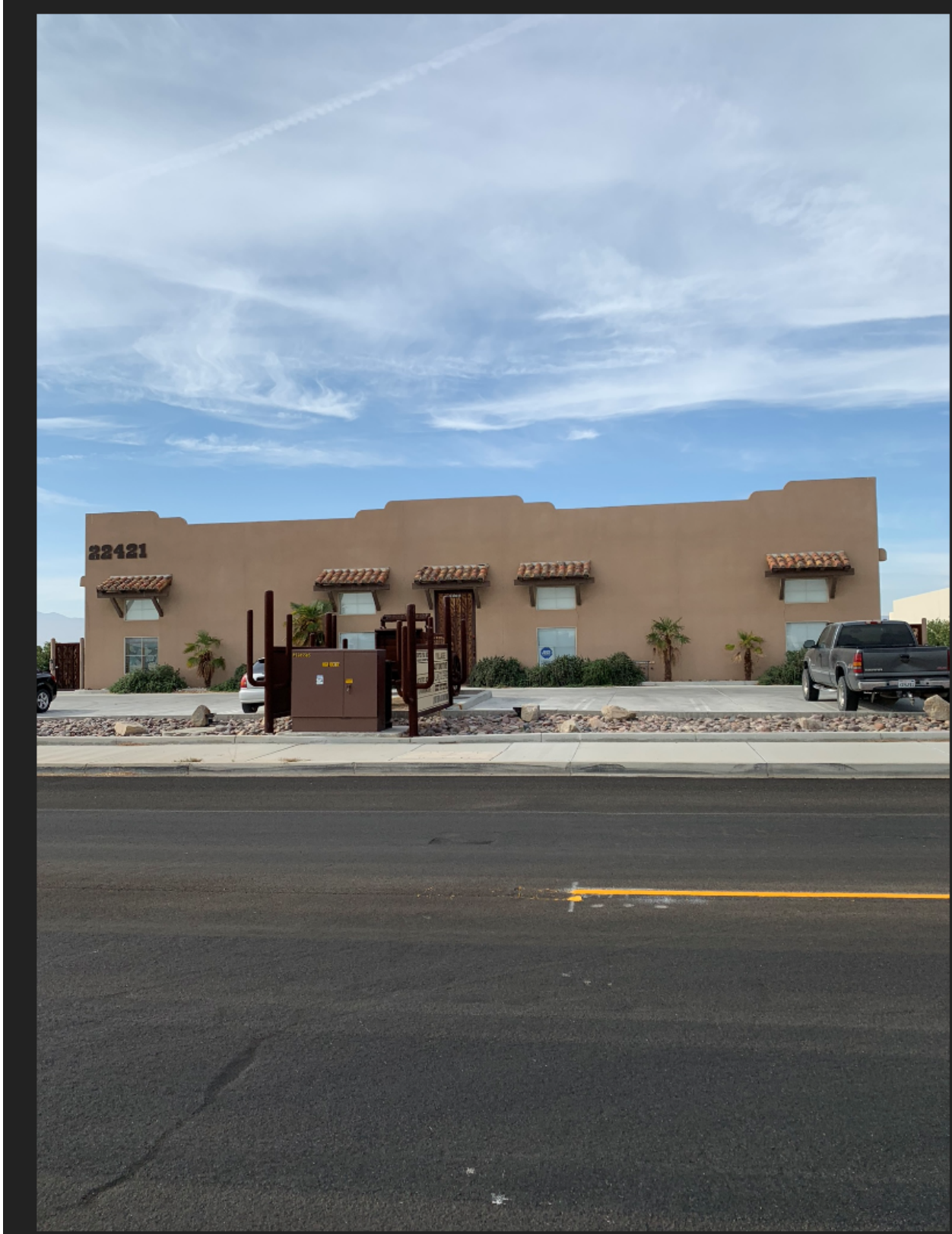
Building and Safety Division Conditions of Approval

- BC.1 Comply with State of California Disability Access requirements.
- BC.2 Page two (2) of the submitted building plans shall contain the conditions of approval.
- BC.3 Construction shall comply with current California Building Codes.
- BC.4 Best Management Practices (BMPs) are required for the site during construction.
- BC.5 Verify adjacent occupancies and verify required fire resistive construction.

Apple Valley Fire Protection District Conditions of Approval

- FD1. Approved numbers or addresses shall be placed on all new buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers shall contrast with their background. Additional non-illuminated contrasting (12) inch numbers shall be displayed and the location will be determined by fire department prior to installation.
- FD2. Provide a strip sign above the main entrance door which reads: "This Door To Remain Unlocked When Building is Occupied."
- FD3. Every exit door with the exception of the main entrance shall be openable from the inside without the use of a key, tool or special knowledge or effort. Special locking devices shall be of an approved type.
- FD4. Fire Extinguishers with a minimum rating of 2A40BC shall be provided, as per inspection, prior to Certificate of Occupancy.

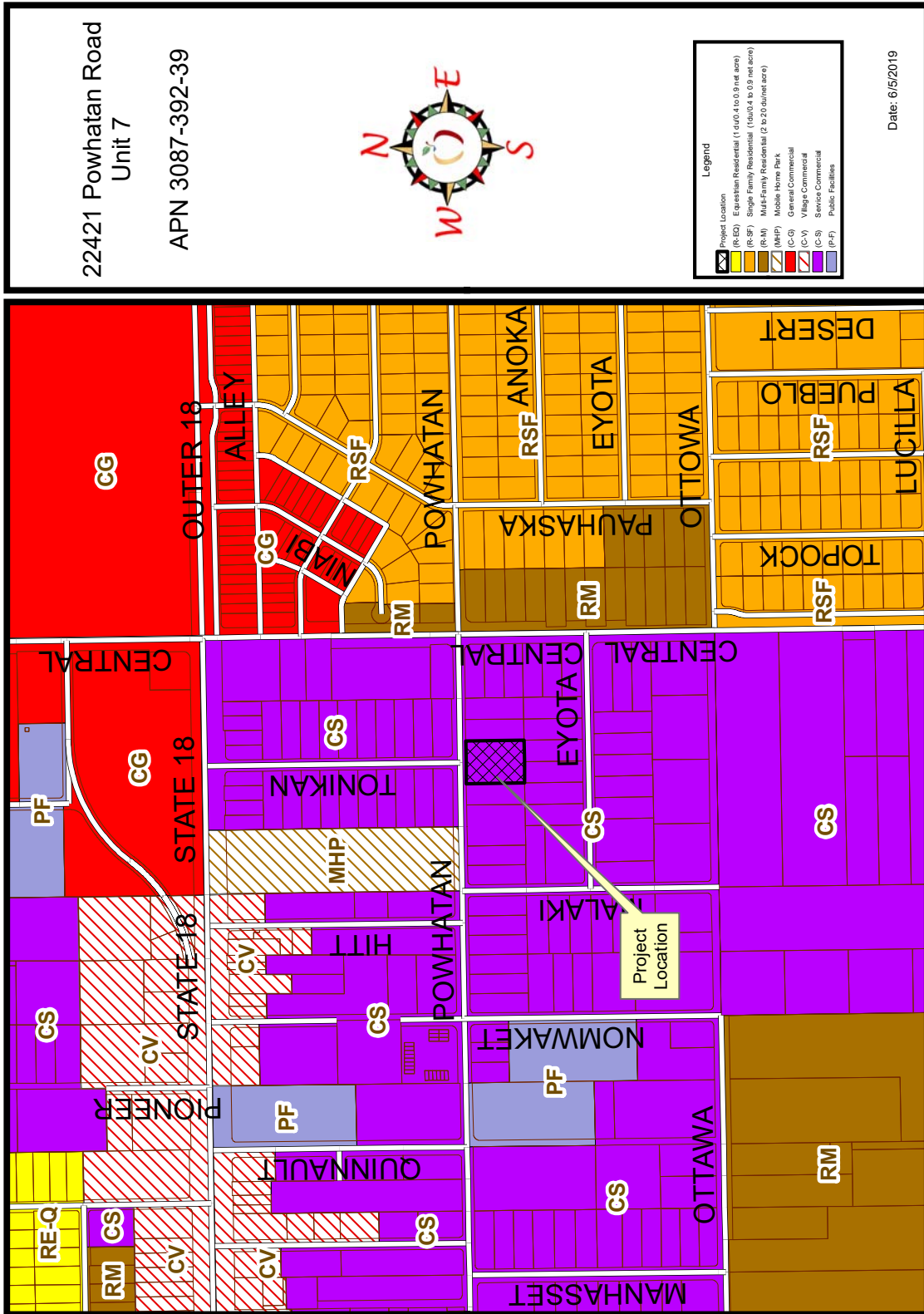
~End of Conditions~





ZONING/LOCATION MAP

Conditional Use Permit No. 2019-002





Planning Commission Agenda Report

DATE: June 19, 2019 Item No. 3

CASE NUMBER: Variance No. 2019-002

APPLICANT: Mr. Ash Pathi

PROPOSAL: A request for approval to allow a proposed drive-thru lane adjacent to residential to operate from 4:30 a.m. to 11:00 p.m. where the Development Code specifies hours of operation for a drive-thru adjacent to residential to operate from 6:00 a.m. to 10:00 p.m..

LOCATION: 18195 Highway 18; APN 0473-112-10, -11.

ENVIRONMENTAL DETERMINATION: Pursuant to the Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15305, Class 5, the proposed request is Exempt from further environmental review.

CASE PLANNER: Carol Miller, Assistant Director of Community Development

RECOMMENDATION: Approval

PROJECT SITE AND DESCRIPTION

A. Project Size

The project site consists of 1.28 acres.

B. General Plan Designations

Site - General Commercial (C-G)
North - General Commercial (C-G)
South - Medium Density Residential (R-M)
East - General Commercial (C-G)
West - General Commercial (C-G)

C. Surrounding Zoning and Land Use

Site - General Commercial (C-G), Commercial
North - General Commercial (C-G), Professional Office, Hospital
South - Multi-Family Residential (R-M), Apartment Complex.
East - General Commercial (C-G), Professional Office
West - General Commercial (C-G). Commercial

ANALYSIS

A. General:

The applicant is requesting review and approval of a Variance for relief from Development Code Section 9.36.140.C.3 which specifies the hour of operation of a drive-thru lane when adjacent to any residential use or district.

On October 17, 2018, DP No. 2018-004 & SUP No. 2018-001 (Nico Plaza) were approved by the Planning Commission subject to the Conditions of Approval. Because the subject site is adjacent to residentially zoned property and the development proposes a drive-thru lane, Development Code Section 9.36.140.C.3 (*Hours of Operation*) was included as a Conditions of Approval as a matter of information. The Code section reads as follows:

3. ***Hours of Operation.*** A drive-in, drive-thru, delivery or take-out restaurant located adjacent to any residential use or district shall not open prior to 6:00 a.m. or after 10:00 p.m. The approval of a Conditional Use Permit. may further restrict the hours of operation for such restaurants when adjacent to other uses or districts and where modified hours are necessary to mitigate potential adverse impacts related to noise, traffic or lighting.

A proposed coffee establishment within Unit A proposes to maintain store hours of 4:30 a.m. to 11:00 p.m.. Since these hours of operation are contrary to the Development Code, the applicant is requesting a variance.

B. Site Analysis:

The intent of limiting the hours of operation on drive-thru lanes is to limit the potential noise impacts from vehicles and menu board speaker on adjacent residential. Although the development is adjacent to a residential zoning district to the south and developed with apartments, the drive-thru lane is setback from the adjacent residential property line approximately fifty-four (54) feet, with the actual apartment units setback an additional twenty (20) feet for an overall separation distance of seventy-four (74) feet. Within the area of separation is a twenty-eight (28) foot wide alley that separates the two land uses.

An acoustical analysis was prepared to determine the noise level at the property line of the residential property. Development Code Section 9.73.050-A specifies the maximum exterior noise level a land use category receives. In this instance, the maximum operational noise levels that a multi-family development receives must not exceed 50 dBA between the hours of 7 a.m. and 10 p.m. and 45 dBA between the hours of 10 p.m. and 7 a.m.. The analysis concluded that the proposed intercom and associated drive-thru traffic did not exceed 50 dBA at the property line of the multi-family development.

In addition to the required findings, staff can support the requested variance based on the separation between the drive-thru lane and the apartment units, and the acoustical analysis that demonstrated the required noise thresholds were not exceeded.

C. Environmental Assessment:

Pursuant to the Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15305, Class 5, the proposed request is Exempt from further environmental review.

D. Noticing:

This item was advertised as a public hearing in the Apple Valley News newspaper and notices were mailed to all property owners within a 300-foot radius on June 7, 2019.

E. Findings:

In considering any Variance, the Commission is required by the Development Code to make specific Findings. The following are the Findings required to grant a Variance, as required under Section 9.24.070 of the Development Code, and a comment to address each:

1. That because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of this Code deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

Comment: The strict application of this Code would deprive the tenant the hours of operation enjoyed by other similar businesses in the same zone. Given existing improvements, relocating the drive-thru to the opposite side of the property is not an option. The subject drive-thru lane is not adjacent to a developed residential parcel, but rather a dedicated alleyway with a zoning designation of Multi-Family Residential.

2. That granting the Variance will be consistent with the general intent and purpose of the Development Code provisions for the district in which the property is located.

Comment: The subject site is not adjacent to a developed residential parcel, but rather a dedicated alleyway with a zoning designation of Multi-Family Residential. The intent of the restricted hours of operation for a drive-thru lane is to minimize the noise impacts associated with the drive-thru lane when physically adjacent to residential. Given the distance separation of approximately seventy-four (74) feet, the intent of the Code is met.

3. That granting the Variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same vicinity and zoning district and denied to the property for which the Variance is sought;

Comment: The literal interpretation of the Code deprives the applicant of rights commonly enjoyed by other similar businesses in the same zoning district because the Code does not account for situations where the adjacent area that maybe zoned residential but developed in a non-buildable/residential manner such as an alleyway.

4. That granting the Variance will not be materially detrimental to the public health, safety or welfare, or injurious to the property or improvements in such vicinity and land use district in which the property is located;

Comment: The modifications to the drive-thru hours of operation will not be materially detrimental to the public health, safety or welfare, or injurious to the property or improvements in such vicinity and land use district because the area in question is an alleyway and the nearest apartment unit to the south is approximately seventy-four (74) feet away. Further, an acoustical analysis was prepared that demonstrated that potential noise impacts from vehicles and menu

board speaker did not exceed the Development Code noise thresholds.

5. That granting of the Variance does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and in the zoning district and General Plan land use designation such property is located; and

Comment: Although the subject site is adjacent to Multi-Family Residential zoning to the south, the drive-thru lane is not physically adjacent to the apartment units but rather adjacent to an alleyway. Given this circumstance, the granting of the Variance will not constitute a special privilege.

6. That granting the Variance does not allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel.

Comment: The proposed use is an activity that is allowed by the Development Code within the General Commercial (C-G) district.

RECOMMENDATION

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

1. Find that the facts support the required Findings for approval of Variance No. 2019-002.

ATTACHMENTS:

1. Applicant's Variance Statement
2. Zoning/Location Map

FINDINGS REQUIRED TO GRANT A VARIANCE

The applicant must provide specific justification for each of the findings listed below. You should include specific evidence, details and/or qualities of the proposed structure or other project. Additional pages or supporting documentation such as photographs, previous variance approval, etc., may be attached.

1. Special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the Town Development Code deprives such property of privileges enjoyed by other properties in the vicinity and under identical zoning classification.

THIS PROPERTY IS ACROSS THE ALLEY FROM MULTI-FAMILY APARTMENTS. THE APARTMENTS ARE EXISTING AND STRICT APPLICATION OF THE CODE WOULD NOT ALLOW POTENTIAL TENANTS ABILITY TO REALIZE INCOME DUE TO RESTRICTED HOURS.

2. Granting the variance will be consistent with the general intent and purpose of the Development Code provisions for the district in which the property is located.

OTHER FAST FOOD RESTAURANTS HAVE DRIVE THRU IN THE AREA. THE PROPOSED TENANT IS A COFFEE BUSINESS THEREBY REQUIRING EARLY MORNING HOURS

3. Granting of the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zoning district and denied to the property for which the Variance is sought.

WHILE OTHER RESTAURANTS HAVE DRIVE-THRU IN THE AREA, THIS TENANT REQUIRES EARLY HOURS DUE TO COFFEE AS ITS PRIME MENU ITEM.

4. Granting of the variance will not be materially detrimental to the public health, safety or welfare, or injurious to the property or improvements in such vicinity and land use district in which the property is located.

THE EXISTING APARTMENTS ARE ACROSS THE ALLEY, THEREFORE GRANTING OF THE VARIANCE WOULD NOT BE DETRIMENTAL.

5. Granting of the variance does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and in the zoning district and General Plan land use designation such property is located.

OTHER RESTAURANTS HAVE DRIVE-THRU IN THE AREA.

SUPPLEMENTAL VARIANCE STATEMENT

The applicant must provide detailed answers to the questions listed below. You should include specific evidence, details and/or qualities of the proposed structure or other project. Additional pages or supporting documentation such as photographs, previous variance approval, etc., may be attached.

1. Specific Development Code Section for which relief is being sought:

SECTION 9.36.140.C.4

2. Explain the hardship or practical difficulty that would result from the strict interpretation and enforcement of this Code.

THE PROPOSED USE IS A DRIVE THRU COFFEE ENTITY, THESE ESTABLISHMENTS BEGIN SERVING CUSTOMERS THAT COMMUTE AND BEGIN THEIR COMMUTE WITH COFFEE. NOT ALLOWING A 4:30 A.M. OPENING WOULD CAUSE FINANCIAL LOSS OF BUSINESS.

3. What is the alternative means of compliance being proposed?

OUR CLIENT IS PREPARED TO USE THE MOST CURRENT TECHNOLOGY THAT DOES NOT DISTURB MULTI-FAMILY USED ACROSS THE ALLEY.

4. What are the special circumstances that apply only to the property to which the application pertains, and do not apply generally to the other properties in the vicinity?

WHILE THE PROPERTY IS ON THE VERY BUSY HWY 18 AT KASOTA ROAD, IT IS ALSO ACROSS THE ALLEY FROM A MULTI-FAMILY HOUSING PROJECT.

5. Explain how, if the Variance is approved, it will not constitute a granting of special privilege which will not be available to other properties in the vicinity?

THERE ARE ACTUALLY OTHER DRIVE THRU RESTAURANTS ALONG HWY 18 (TOMMY BURGERS & KFC) THAT HAVE DRIVE THRU & SPEAKER BOARDS. HOWEVER, WHILE THEY ARE RESIDENTIALLY ZONED PROPERTY, SAID PROPERTY IS VACANT.

Signed

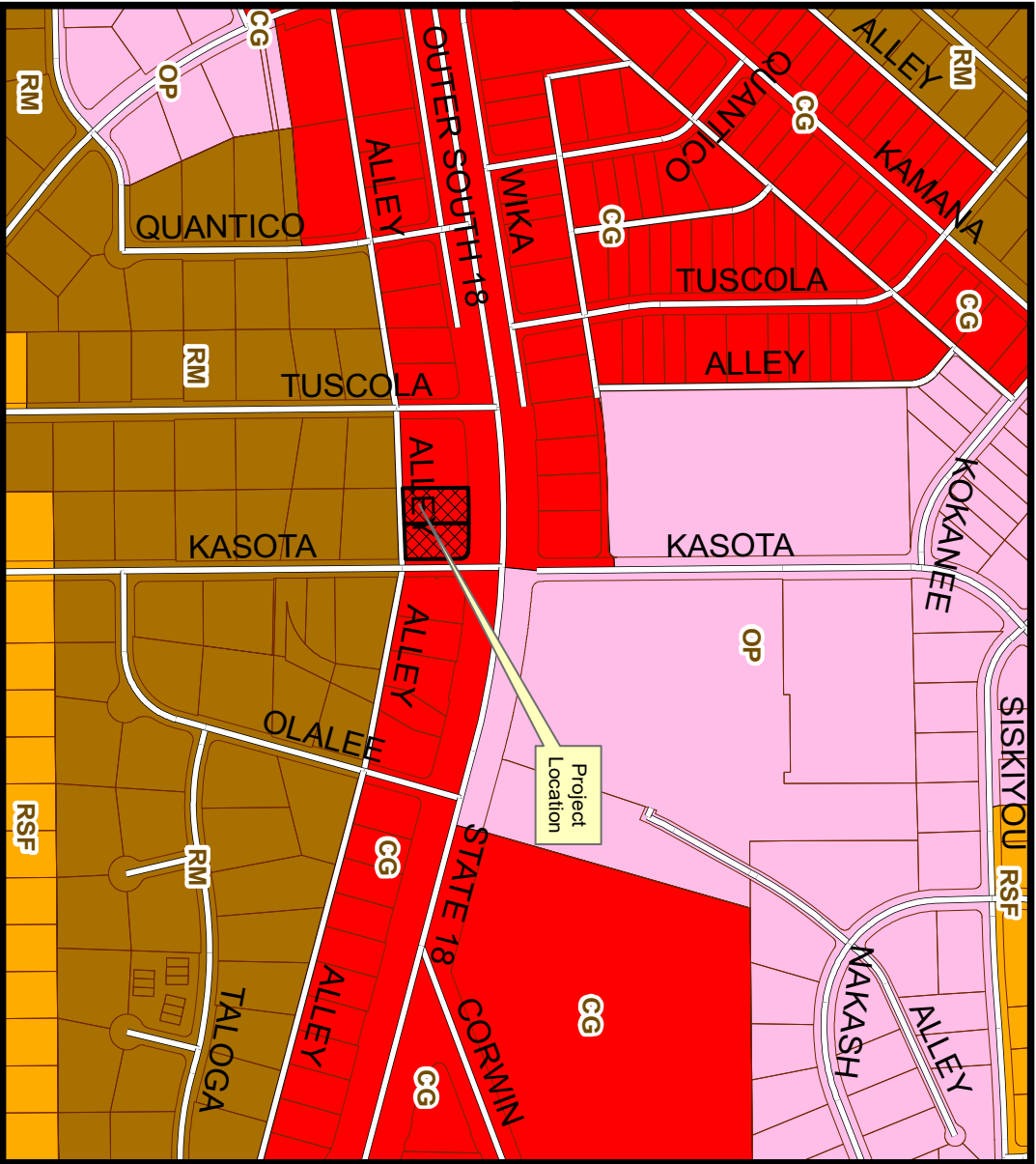
Date

1/10/19

Print Name

ROBERT MARTINEZ AIA, CASI, CASI

ZONING/LOCATION MAP



Variance No. 2018-002

18195 Highway 18
 APN(s) 0473--112-10 and
 -11



Legend	
	Project Location
	(RSF) Single Family Residential (50,000 to 60,000 sq ft)
	(RM) Multi-Family Residential (2 to 20 du/unit area)
	(CG) General Commercial
	(OP) Office Professional

Date: 6/7/2019



Planning Commission Agenda Report

DATE:	June 19, 2019	Item No. 4
SUBJECT:	GENERAL PLAN AMENDMENT NO. 2019-001 AND DEVELOPMENT CODE AMENDMENT NO. 2019-004	
APPLICANT:	Town of Apple Valley	
PROPOSAL:	An amendment to the text of the Land Use Element of the General Plan removing the requirement for a minimum project size of 10 acres within the Regional Commercial (C-R) land use definition and an amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code that will amend Table 9.35.040-A "Site Development Standards" to reduce the minimum lot size within Regional Commercial (C-R) zoning designation from eight (8) acres to 10,000 square feet.	
LOCATION:	Town-wide	
GENERAL PLAN DESIGNATION:	Regional Commercial (C-R) land use designations Town-wide	
EXISTING ZONING:	Regional Commercial (C-R) land use designations 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.	
PREPARED BY:	Lori Lamson, Assistant Town Manager	
RECOMMENDATION:	Adopt Planning Commission Resolution No. 2019-004.	

BACKGROUND

At the direction of the Town Council, on May 1, 2019 at the joint Planning Commission and Town Council workshop, the Town Council initiated an amendment to the General Plan and the Development Code regarding minimum project size of a commercial development within the Regional Commercial (C-R) land use and zoning designation. Staff was directed by the Council, to work with the Planning Commission to reduce the minimum project size to allow flexibility in developing and phasing projects within the C-R land use designation and zoning.

Presently, the General Plan requires development within the C-R land use designation a minimum project size of 10 (ten) acres and the Development Code requires a minimum lot size of 8.1 acres. Additionally, footnote (2) would be removed in its entirety. The discrepancy between the General Plan and Development Code could be corrected through this amendment.

DISCUSSION

The original intent of the Regional Commercial designation was to encourage large scale projects which are cohesive in development patterns, circulation and design. Requiring a minimum project size/lot size was to ensure extension of adequate infrastructure and to avoid piecemeal development patterns. Because some of the lot sizes were smaller than eight acres, it requires assemblage of lots to comply with this requirement.

The footnote (2) in the Development Code, which states that the minimum lot size of 8.1 acres could be waived if the project were part of an approved Development Permit, refers to a built project. Many projects, such as a large commercial retail center, are built under one or multiple larger lots. After construction is complete, they are often subdivided into individual lots for each building/out-pad, strictly for financing or ownership transactions. Most of the newer commercial centers in Town have out-pad parcels which are individually owned. This footnote is not intended for Development Permits that have yet to be constructed. With the proposed amendment, staff is recommending eliminating this footnote.

Developers have found the requirement for the minimum development project area/lot size to be problematic in several ways. First, it puts restrictions, requiring installation of site improvements and infrastructure for the entire project, even when phasing the development. Many cases, grading, street improvements or utility extensions will be required for the entire site, even though only one or two pads are constructed in the first phase. It does not allow subdivision of the parcels, smaller than the minimum size, prior to development. This has been a complaint of developers when trying obtain financing or obtaining investors.

The Town could benefit from a change by seeing a possible increase in development proposals. At the same time, there could be some developments that complete the first phases and are delayed in seeing development completed in the later phases. We have seen examples of this prior to this minimum project/lot size going into effect in 2009. In the Apple Valley Town Center, the pads behind Lowe's and adjacent to the El Pollo Loco and Sonic have proven to be difficult to develop, due to the lack of street frontage, circulation pattern and grading issues. The existing regulations was an attempt to avoid this from happening again, but instead has also inflicted additional hurdles that are making development difficult to get started.

The more traditional developments of the large commercial centers were completed by a master developer. But even these developers left some pads undeveloped. These developed and undeveloped pads and buildings were divided up through a parcel map to allow for individual ownership. Jess Ranch Market Place, Apple Valley Town Center and Apple Valley Commons are examples of this. The restrictive language as adopted in 2009 would not allow some of these undeveloped out-pads to be parceled off for ownership under the current regulations. Lessening the restrictions of the land use designation and the development standards will provide developers with the ability to construct more projects at a faster pace. The Town's current design regulations will continue to ensure that these projects are developed in a manner that is characteristic to the quality design expected in Apple Valley.

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

General Plan:

Regional Commercial (C-R): This land use category allows retail uses that serve not only the residents and businesses of Apple Valley, but also of the surrounding region. Permitted uses in this designation include auto malls, regional malls, business parks, factory stores and outlets, entertainment commercial, hotels and motels, restaurants, institutional and public uses. ~~The minimum size for a Regional Commercial project site is 10 acres.~~

Development Code:

Table 9.35.040-A Site Development Standards(Amended Ord. 313, 473)

STANDARDS ⁽¹⁾	DISTRICT					
	O-P	C-G	C-S	C-R	C-V	M-U
1. Minimum lot area	7.5K sf	10K sf	10K sf	8.1 ac ⁽²⁾ 10K sf	10K sf	1 ac.

~~(2) Unless part of an approved Development Permit.~~

FINDINGS:

In considering any General Plan Amendment or Development Code Amendment, the Council and Commission are required by the Municipal Code to make special Findings. The following are the Findings for a General Plan Amendment required under Section 9.2.050.H.3 of the Development Code, with a comment to address each. If the Commission wishes to modify the offered comments, after considering input and public testimony at the public hearing, modifications to the Findings and Code Amendment recommendations can be included into the information forwarded to the Council for consideration.

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

Comment: The proposed General Plan Amendment is consistent with the General Plan goals and policies because it would facilitate the development at the same time be consistent with the goals and policies of the Land Use Element that pertains to ensuring quality development. The amendment would also eliminate an existing inconsistency between the General Plan and the Development Code.

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

Comment: The General Plan Amendment and the Development Code will be consistent regarding the size of development projects within the Commercial Regional land use designation and will promote the further expansion of commercial development within the Town.

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

Comment: The proposed General Plan Amendment is consistent with the General Plan goals and policies because it would correct and inconsistency between the General Plan and the Development Code and in addition promote future expansion of development within the existing Regional Commercial designations.

The following are the Findings for an amendment to the Development Code as required under Section 9.06.060 and a comment to address each:

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

Comment: The General Plan is the blueprint for the community's future growth. Specific Goals and Objectives are provided within each of the adopted General Plan's State mandated elements. The proposed amendment would facilitate development, allow for phasing of development, including on and off site improvements. In addition, the proposed amendment would not reduce the quality of development characteristic of new construction within the Town. The amendment will eliminate the current inconsistency of the Development Code with the General Plan.

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

Comment: The proposed Amendment will reduce the minimum lot size of development, allow for phasing of development, while still ensuring that the community's existing high quality of design and aesthetic integrity will be preserved and will not be detrimental to the public health, safety or welfare of the community.

NOTICING

General Plan Amendment No. 2019-001 and Development Code Amendment No. 2019-004 were advertised as a public hearing in the Apple Valley News newspaper on June 7, 2019.

ENVIRONMENTAL REVIEW

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

RECOMMENDATION

Following receipt of public input and discussion by the Commission, it is recommended that the Commission move to approve Planning Commission Resolution No. 2019-00_4, forwarding a recommendation that the Town Council amends the text of the General Plan and Development Code as described above.

Prepared by:

Lori Lamson
Assistant Town Manager

ATTACHMENTS:

1. Planning Commission Resolution No. 2019-004

PLANNING COMMISSION RESOLUTION NO. 2019- 004

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL AMEND THE GENERAL PLAN LAND USE ELEMENT DEFINITION OF REGIONAL COMMERCIAL (C-R) DESIGNATION BY REMOVING THE MINIMUM DEVELOPMENT SIZE OF 10 ACRES AND AMEND TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY AMENDING TABLE 9.35.040-A OF CHAPTER 35 “COMMERCIAL AND OFFICE DISTRICTS”, REMOVING THE MINIMUM LOT SIZE OF 8.1 ACRES AND FOOTNOTE (2) AND REPLACING IT WITH A MINIMUM LOT SIZE OF 10,000 SQUARE FEET

WHEREAS, The General Plan of the Town of Apple Valley was adopted by the Town Council on August 11, 2009; and

WHEREAS, Title 9 “Development Code” of the Municipal Code of the Town of Apple Valley was adopted by the Town Council on April 27, 2010; and

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

WHEREAS, Development Code Amendment No. 2019-004 is consistent with the General Plan and Municipal Code of the Town of Apple Valley;

WHEREAS, On May 1, 2019, the Town Council initiated a General Plan Amendment and Development Code Amendment, directing staff to draft language that would reduce the minimum project size/lot size for commercial development within the Regional Commercial (C-R) designation/zone for the Planning Commission to review and provide recommendation;

WHEREAS, Specific changes are proposed to the Land Use Element of the adopted General Plan of the Town of Apple Valley by amending the definition of the “Regional Commercial” (C-R) land use designation remove the 10-acre minimum project size;

WHEREAS, Specific changes are proposed to the Development Code of the Town of Apple Valley Municipal Code by amending Chapter 9.35 “Commercial and Office Districts”, Table 9.35.040-A “Site Development Standards” by replacing the minimum lot size for Regional Commercial from 8.1 acres to 10,000 square feet and removing footnote (2) in its entirety:

WHEREAS, On June 7, 2019, General Plan Amendment No. 2019-001 and Development Code Amendment No. 2019-004 was duly noticed in the Apple valley News, a newspaper of general circulation within the Town of Apple Valley; and

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

WHEREAS, On June 19, 2019, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on General Plan Amendment No. 2019-001 and Development Code Amendment No. 2019-004, receiving testimony from the public and adopted Planning Commission Resolution No. 2019-004 recommending adoption of this Ordinance; and

WHEREAS, General Plan Amendment No. 2019-001 and Development Code Amendment No. 2019-002 are consistent with the Land Use Element goals and policies of the Town's General Plan and Title 9 "Development Code" of the Municipal Code of the Town of Apple Valley and shall promote the health, safety, and general welfare of the citizens of the Town of Apple Valley.

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

Section 1. Find that the changes proposed by General Plan Amendment No. 2019-001 and Development Code Amendment No. 2019-004 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

Section 2. Pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be determined that the Code amendment is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty, as with the proposed Code Amendment, that there is no possibility that the proposal will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

Section 3. Amend the definition of the "Regional Commercial" (C-R) land use designation of the Land Use Element within the General Plan of the Town of Apple Valley to read as follows:

Regional Commercial (C-R): This land use category allows retail uses that serve not only the residents and businesses of Apple Valley, but also of the surrounding region. Permitted uses in this designation include auto malls, regional malls, business parks, factory stores and outlets, entertainment commercial, hotels and motels, restaurants, institutional and public uses.

Section 4. Amend Table 9.35.040-A "Site Development Standards" to read as follows:

Table 9.35.040-A Site Development Standards

STANDARDS ⁽¹⁾	DISTRICT					
	O-P	C-G	C-S	C-R	C-V	M-U
1. Minimum lot area	7.5K sf	10K sf	10K sf	10K sf	10K sf	1 ac.

Approved and Adopted by the Planning Commission of the Town of Apple Valley this 19th day of June 2019.

 Jason Lamoreaux, Chairman

ATTEST:

I, Maribel Hernandez, 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 19th day of June 2019 by the following vote, to-wit:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

 Ms. Maribel Hernandez, Planning Commission Secretary



Planning Commission Agenda Report

DATE:	June 19, 2019	Item No. 5
CASE NUMBER:	Development Code Amendment No. 2019-005	
APPLICANT:	Town of Apple Valley	
PROPOSAL:	<p>The Planning Commission will be considering an amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code to modify various sections relating to the following:</p> <ol style="list-style-type: none">1. Allow administrative review of all new development that is less than 100,000 square feet in size.2. Remove Use Permit requirements as it pertains to physical development and replace it with a Development Permit.3. Expand the lapse of time for a Variance to two (2) years and allow for extensions of time for Variance and Deviation Permits.4. Modify language to better clarify the extension of time process for Use, Development, Variance and Deviation Permits.5. Add language to the Development Code relating to the Development Advisory Board.6. Remove Chapter 9.66 "Entertainment Overlay" and associated references.7. Reduce the number of Findings required to approve a Use or Development Permit.	
LOCATION:	Town-wide	
ENVIRONMENTAL DETERMINATION:	<p>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.</p>	
PROJECT PLANNER:	Pam Cupp, Associate Planner	
RECOMMENDATION:	Adopt Planning Commission Resolution No. 2019-005	

BACKGROUND & DISCUSSION

On May 1, 2019 the Town Council and Planning Commission held a joint workshop to hear public testimony and discuss matters concerning the Town's Development Code. Upon hearing public comment, the Town Council and Planning Commission engaged in a dialogue that identified areas of the Development Code that could be modified to create a more business friendly environment. Based upon that discussion, staff received direction to improve the entitlement procedures, increase flexibility into the site development standards, update the permitted use tables and perform a general clean-up to remove Development Code redundancies with the goal of creating a document that can be easily navigated by the public. Rather than perform one comprehensive update, staff is on an aggressive schedule to bring forth multiple amendments for the Commission's consideration. These amendments will be grouped into subject matter that can be reviewed during a single public hearing.

Development Code Amendment No. 2019-005 is predominantly comprised of administrative and procedural changes. This amendment recommends expansion of projects that can be reviewed at the staff level through the Development Permit process. This amendment will replace the Use Permit process with the Development Permit when the entitlement is applicable to physical construction only. Additionally, staff is recommending a reduction and consolidation to the Findings required to grant an approval to a Development or Use Permit. This amendment will modify the Code so that expiration dates and time extensions are consistent for most land use entitlements. Language is being suggested that will promote a better understanding of the Development Advisory Board process.

Development Code Amendment No. 2019-005 is recommending the elimination of the Entertainment Village Overlay District. The overlay district was created for the sole purpose of building a multi-use center to include government buildings, shopping, theater and high-density condominiums. When the housing component was not approved, the entire project was scrapped. The overlay district was placed upon the area currently occupied Apple Valley Commons, Civic Center Park, Town Hall buildings and the County Library and was not included within the 2010 Development Code update. Therefore, staff is recommending elimination of the Entertainment Village Overlay District and associated references.

ANALYSIS

The following suggested modification were listed as items for discussion at the May 1, 2019 joint meeting of the Town Council and Planning Commission. Staff is offering for the Commission's consideration the following amended language as identified by strike-through text for deletions and underlined text for additions.

Item 1. As presented at the workshop, the following modification will allow administrative review of new development that is greater than 50,000 square feet. Development proposal greater than 100,000 square feet will require Planning Commission review.

Modify Section 9.17.020 "Applicability" of Chapter 9.17 "Development Permit" as follows:

A Development Permit allows for the architectural/aesthetic review of structures permitted by this Code for the various zoning districts. A Development Permit is not required if a Conditional Use Permit has been submitted and approved where the Commission has addressed the aesthetics and site design issues required under a Development Permit.

A. A Development Permit approved by the Director shall be required for:

1. All commercial, office and industrial development ~~below 50,000~~ 100,000 square feet ~~or below~~.
 2. Any addition, reconstruction or relocation totaling more than fifty (50) percent of the existing floor area, or 2,500 square feet, or exterior remodeling or construction altering the exterior appearance of a commercial, office or industrial building.
- B. A Development Permit approved by the Planning Commission shall be required for:
1. All residential tract development (except single-family residential homes built on individual lots or tracts conditioned for custom home development).
 2. All commercial, office and industrial development ~~50,000~~ greater than 100,000 square feet ~~and above~~.

~~Approval of a Conditional Use Permit shall be required for any new structure of 230,000 square feet or larger within any Commercial Zoning District or 750,000 square feet or larger within any Industrial Zoning District as provided in Chapter 9.16 "Conditional and Special Use Permits". Said Conditional Use Permit requirement shall also apply to additions or alterations that result in an existing building being enlarged beyond the thresholds noted above. (This deletion is in response to Item 2 below.)~~

Item 2. The following modifications will remove the Use Permit requirement pertaining to physical development only and replace it with the appropriate type of Development Permit.

Modify Paragraph 3 of Section 9.35.040 "Site Development Standards" of Chapter 9.35 "Commercial and Office Districts" as follows:

~~All commercial development, including new construction, exterior modifications and additions, are subject to the provisions within Development Code Chapter 9.17 "Development Permits". Approval of a Conditional Use Permit shall be required for any new structure of 230,000 square feet or larger within any Commercial Zoning District or 750,000 square feet or larger within any Industrial Zoning District as provided in Chapter 9.16 "Conditional and Special Use Permits". Said Conditional Use Permit requirement shall also apply to additions or alterations that result in an existing building being enlarged beyond the thresholds noted above.~~

Modify Footnote 5 in Table 9.35.040-A "Site Development Standards" of Chapter 9.35 "Commercial and Office Districts" (This is only applicable to heights within the Office Professional zoning designation) as follows:

~~(5) Up to 100 feet with a Conditional Use Permit~~ Development Permit reviewed and approved by the Planning Commission.

Modify Subsection A within Section 9.35.130 "Residential Structure Conversion/Relocation" of Chapter 9.35 "Commercial and Office Districts" as follows:

- A. Conversions of Existing Residential Structures
1. Structures originally designed for residential occupancy (including hotels and motels), or as accessory structures or additions to residences, and located in a non-residential district, shall not be used for any commercial or office use unless the building and site are improved to meet all applicable code requirements for a change in occupancy. This

includes, but is not limited to, Building and Safety, Engineering, Fire District, Police, Water District and Planning Division requirements.

2. Conversions of residential structures to commercial or office use is subject to the approval of a ~~Conditional Use Permit~~ Development Permit.
3. In approving a ~~Conditional Use Permit~~ Development Permit the ~~Planning Commission review authority~~ shall impose conditions necessary to make the following findings:
 - a. The conversion will not adversely impact adjacent properties or the reasonable use thereof.
 - b. Adequate parking and circulation will be provided.
 - c. The architectural design and materials used will be compatible with the character of the neighborhood.
 - d. Public improvements that would normally be required for new construction will be provided.

Modify Subsection B “Intent” of Section 9.37.010 “Purpose and General Plan Consistency” of Chapter 9.37 “Commercial and Office District Design Standards” as follows:

- B. **Intent.** The overall intent of these standards is to provide a framework that defines the type of built environment desired by the Town that can be used by developers, Town staff, the Planning Commission and the Town Council to design and evaluate development proposals. These standards are also intended to be used as minimums to evaluate standards proposed as a part of future specific plans and Planned Commercial Developments. Final design review of all commercial developments, including new construction, exterior modifications and additions, are subject to the provisions of Development Code Chapter 9.17 “Development Permit”.

Delete Section 9.37.015 “Applicability” of Chapter 9.37 “Commercial and Office District Design Standards” in its entirety:

~~9.37.015 Applicability~~

~~A Development Permit allows for the architectural/aesthetic review of structures permitted by this Code for the various zoning districts. A Development Permit is not required if a Conditional Use Permit has been submitted and approved where the Commission has addressed the aesthetics and site design issues required under a Development Permit.~~

~~A Development Permit approved by the Planning Commission shall be required for all residential tract maps (except single family residential homes built upon individual lots), parcel maps where conditioned by the Commission at time of tentative approval, commercial, office and industrial development, and Mixed Use projects within the Town of Apple Valley. Additionally, any addition, reconstruction or relocation totaling more than fifty (50) percent of the existing floor area, or 2,500 square feet, or exterior remodeling or construction altering the exterior appearance of the structure requiring a building permit or discretionary review within any residential (except single family residential homes built upon individual lots), commercial, office or industrial district shall be subject to Planning Commission approval of a Development Permit.~~

~~Approval of a Conditional Use Permit shall be required for any new structure of 230,000 square feet or larger within any Commercial Zoning District or 750,000 square feet or larger within any Industrial Zoning District as provided in Chapter 9.16 "Conditional and Special Use Permits". Said Conditional Use Permit requirement shall also apply to additions or alterations that result in an existing building being enlarged beyond the thresholds noted above.~~

Remove the following paragraph from Table 9.45.040-A "Site Development Standards" of Chapter 9.45 "Industrial Districts".

~~Approval of a Conditional Use Permit shall be required for any new structure of 230,000 square feet or larger within any Commercial Zoning District or 750,000 square feet or larger within any Industrial Zoning District as provided in Chapter 9.16 "Conditional and Special Use Permits". Said Conditional Use Permit requirement shall also apply to additions or alterations that result in an existing building being enlarged beyond the thresholds noted above.~~

Modify Subsection C "Applicability" of Section 9.47.010 "Purpose and General Plan Consistency, Objectives and Applicability" and delete Section 9.47.015 "Applicability" of Chapter 9.47 "Industrial Design Standards" as follows:

C. Applicability

The provisions of this Chapter shall apply to all new industrial development within the Town and any addition, remodeling, relocation or construction requiring a building permit within any industrial district.

The overall intent of these standards is to provide a framework that defines the type of built environment desired by the Town that can be used by developers, Town staff, the Planning Commission and the Town Council to design and evaluate development proposals. Final design review of all industrial development, including new construction, exterior modifications and additions, is subject to the provisions of Development Code Chapter 9.17 "Development Permit".

~~9.47.015—Applicability(Amended Ord. 236, 265, 291)~~

~~A Development Permit allows for the architectural/aesthetic review of structures permitted by this Code for the various zoning districts. A Development Permit is not required if a Conditional Use Permit has been submitted and approved where the Commission has addressed the aesthetics and site design issues required under a Development Permit.~~

~~A Development Permit approved by the Planning Commission shall be required for all residential tract maps (except single family residential homes built upon individual lots), parcel maps where conditioned by the Commission at time of tentative approval, commercial, office and industrial development within the Town of Apple Valley. Additionally, any addition, reconstruction or relocation totaling more than fifty percent (50%) of the existing floor area, or 2,500 square feet, or exterior remodeling or construction altering the exterior appearance of the structure requiring a building permit or discretionary review within any residential (except single family residential homes built upon individual lots), commercial, office or industrial district shall be subject to Planning Commission approval of a Development Permit.~~

~~Approval of a Conditional Use Permit shall be required for any new structure of 230,000 square feet or larger within any Commercial Zoning District or 750,000 square feet or larger within any Industrial Zoning District as provided in Chapter 9.16 "Conditional and Special Use Permits". Said Conditional Use Permit requirement shall also apply to additions or alterations that result in an existing building being enlarged beyond the thresholds noted above.~~

Items 3 & 4. As proposed, this modification will expand the lapse of time for a Variance and Deviation Permits so that as approved, the permits will last the duration of the applicable entitlement. Additionally, time extension process of Use Permits and Development Permits is being modified for clarification purposes.

Modify Section 9.16.100 “Lapse of Permits/Expiration” of Chapter 9.16 “Conditional and Special Use Permits as follows:

- A. A Use Permit shall lapse and become void three (3) years following the date on which the use permit was approved, unless:
 - 1. A building permit is issued, and construction is commenced and diligently pursued; or
 - 2. A certificate of occupancy is issued; or
 - 3. If no certificate of occupancy is required, the site is occupied in accordance with the approved Conditional Use Permit.
 - 4. An extension of time has been granted pursuant to the provisions within this chapter;

- B. A Use Permit shall expire if one of the following occurs:
 - 1. The use, business, or service for which the Conditional Use Permit was issued terminates or ceases operation for a continuous period of time in excess of one (1) year; or
 - 2. The operation is discontinued or ceased because of destruction or damage by acts of God or by malicious acts and repair of the damaged facility has not commenced within two (2) years of the date of the destructive act

Modify Section 9.16.155 “Extension of Time” of Chapter 9.16 “Conditional and Special Use Permits as follows:

- A. ~~Automatic Time Extension of a Conditional Use Permit or Special Use Permit.~~ Upon written request received within thirty (30) days prior to the original expiration date, the Community Development Director may grant an automatic Extension of Time to an approved Conditional/Special Use Permit, as provided by this Section. The use permit shall be extended beyond the applicable expiration date two (2) years, as specified, for any Conditional Use Permit or Special Use Permit.

- B. The original decision authority may, upon an application being filed sixty (60) days prior to expiration and for good cause, grant a final time extension not to exceed an additional two (2) years. Applications shall be made on a form to be provided by the Planning Division. Upon granting of an extension, the Planning Division, Director, Commission or Council when appropriate, shall ensure that the previously approved project is consistent with all current Development Code provisions and that the findings for approval of a Development in compliance with Section 9.16.080, Required Findings, of this Chapter, can be made.

Modify Section 9.17.100 “Lapse of Permits/Expiration” of Chapter 9.17 “Development Permits as follows:

- A. Expiration. A Development Permit approval shall expire ~~within~~ two (2) years of the date the permit is issued unless it is otherwise conditioned or unless prior to the expiration of two (2) years:

1. A building permit is issued and substantial construction occurs and is diligently pursued towards completion of the project which was the subject of the Development Permit application. In addition, if after construction is commenced, work is discontinued for a period of two (2) years, then the Development Permit shall become null and void; or
 2. A certificate of occupancy is issued for the structure which was the subject of the Development Permit application.
 3. An extension of time has been granted pursuant to the provisions within this Chapter.
- B. Phased Projects. Projects may be built in phases if so approved by the reviewing authority. If a project is built in preapproved phases, each subsequent phase shall have two (2) years from the previous phase's date of construction commencement to the next phase's date of construction commencement unless another phasing schedule is approved, or the Development Permit shall become null and void. Phasing schedules approved with the Development Permit shall be followed or the Permit shall become subject to revocation.

Modify Section 9.17.110 "Extension of Time" of Chapter 9.17 "Development Permits" as follows:

- A. ~~Automatic Extension of a Development Permit. The Development Permit shall be extended beyond the applicable expiration date to thirty six (36) months, as specified, for any Development Permit. This extension is in addition to any other extension of the expiration date provided for in this Chapter. Upon written request received within thirty (30) days prior to the original expiration date, the Community Development Director may grant an automatic Extension of Time to an approved Development Permit. The Development Permit may be extended beyond the applicable expiration date by three (3) years.~~
- B. ~~The original review authority (Planning Division, Director or Commission) may, upon an application being filed sixty (60) days prior to expiration and for good cause, grant a time extension not to exceed two (2) years. The original decision authority may, upon an application being filed sixty (60) days prior to expiration, and for good cause, grant a final time extension not to exceed an additional two (2) years. Applications shall be made on a form to be provided by the Planning Division. Upon granting of an extension, the Planning Division, Director, Commission or Council when appropriate, shall ensure that the previously approved project is consistent with all current Development Code provisions and that the findings for approval of a Development in compliance with Section 9.17.080, Required Findings, of this Chapter, can be made. The Community Development Director may grant an automatic Extension of Time to an approved Development Permit as provided by in 9.17.110.~~

Modify Section 9.24.110 "Lapse of Variance" of Chapter 9.24 "Variances" as follows:

Expiration. A Variance approval shall expire two (2) years of the date the permit is issued unless prior to the expiration of two (2) years:

- A. ~~A Variance shall lapse and shall become null and void one (1) year after the date on which the Variance became effective unless prior to the expiration of one (1) year, Any required building permit related to the Variance is issued and substantial construction is commenced and diligently pursued toward completion; or~~
- B. An extension of time has been granted pursuant to the provisions within this Chapter.

Modify Section 9.24.120 “Time Extensions” of Chapter 9.24 “Variances” as follows:

- A. Upon written request received within thirty (30) days prior to the original expiration date, the Community Development Director may grant an automatic Extension of Time to an approved Variance. The Variance may be extended beyond the applicable expiration date by three (3) years.
- B. The Planning Commission may, upon an application being filed sixty (60) days prior to expiration, and for good cause, grant a final time extension not to exceed an additional two (2) years. Applications shall be made on a form to be provided by the Planning Division. The original review authority, may upon an application for an extension of time described in Section 9.24.110 above being filed prior to expiration and for good cause, grant a time extension to an approved Variance not to exceed twelve (12) months. Upon granting of an extension, the Commission shall ensure that the Variance complies with all current Development Code provisions that apply.

Modify Section 9.25.070 “Lapse of Deviation Permit” and add Section 9.25.120 “Time Extensions” of Chapter 9.25 “Deviation Permits” as follows:

A Deviation Permit shall lapse and shall become null and void three (3) years following the date on which the permit was approved unless any prior to the expiration of three (3) years:

- A. Any required building permit related to the permit is issued and substantial construction is commenced and diligently pursued toward completion.
- B. An extension of time has been granted pursuant to the provisions within this Chapter.

9.25.120 Time Extensions

- A. Upon written request received within thirty (30) days prior to the original expiration date, the Community Development Director may grant an automatic Extension of Time to an approved Deviation Permit. The Deviation Permit may be extended beyond the applicable expiration date by two (2) years.
- B. The original review authority may, upon an application being filed sixty (60) days prior to expiration, and for good cause, grant a final time extension not to exceed an additional two (2) years. Applications shall be made on a form to be provided by the Planning Division. Upon granting of an extension, the Review authority shall ensure that the Deviation complies with all current Development Code provisions that apply.

Item 5. This suggested modification adds language to explain the Development Advisory Board process.

Modify Section 9.12.020 “Pre-Application Conference” of Chapter 9.12 “Permit Process and Approvals” as follows:

A pre-application conference with the Planning Division is encouraged prior to formal submittal of a permit application. Upon preliminary review of the proposal, the Planning Division may recommend a conference with the Development Advisory Board. The Development Advisory Board is comprised of representatives from various Town Departments, the Apple Valley Fire

Protection District, local water agencies and other agencies as deemed appropriate. It is strongly recommended that the conference take place prior to any substantial investment and submittal of entitlement application.

Item 6. This modification removed Chapter 9.66 “Entertainment Village Overlay District” in its entirety and modifies Table 9.05.030-A “Zoning Districts” by removing reference to the Entertainment Village Overlay District.

Chapter 9.66 “Entertainment Village Overlay District” – Remove in its entirety.

Modify Table 9.05.030-A “Zoning Districts” of Chapter 9.05 “Zoning” as follows:

District Title	Map Designation
Residential Districts	
Very Low Density Residential (1 du/5 or more gross acre) ¹	R-VLD
Residential Agriculture (1 du/2.5 gross ac)	R-A
Low Density Residential (1 du/2.5 to 5 gross ac)	R-LD
Estate Residential (1 du/1 to 2.5 gross ac)	R-E
Estate Residential ³ / ₄ (1 du/0.75 net ac)	R-E ³ / ₄
Equestrian Residential (1 du/0.4 to 0.9 net ac)	R-EQ
Single Family Residential (1 du/0.4 to 0.9 net ac)	R-SF
Multi-Family Residential (2 to 20 du/net ac)	R-M
Mobile Home Park	MHP
Mixed Use	M-U
Planned Residential Development	PRD
Commercial/Office Districts	
Office Professional	O-P
General Commercial	C-G
Service Commercial	C-S
Regional Commercial	C-R
Mixed Use	M-U
Village Commercial	C-V
Industrial Districts	
Planned Industrial	I-P
Resource Extraction	I-RE
Other Districts	
Public Facilities	P-F
Open Space, Conservation	OS-C

Open Space, Recreation	OS-R
Specific Plan	SP
Overlay Districts	
Airport Overlay	A-1, A-2
Entertainment Village	EV
Flood Hazard Area	FH
Seismic Hazard	SH
Ranchos Residential Overlay	RRO

~~† Suffixes apply to zoned lands in the sphere of influence and to the north of the Town limits. These suffixes denote the minimum acreage per lot, as described in Chapter 9.28.~~

Item 7. This modification will consolidate duplicative Findings. Staff is further recommending that the CEQA related Findings be consolidated accordingly.

Modify Section 9.16.090 “Required Findings” of Chapter 9.16 “Conditional and Special Use Permits” as follows:

- A. Before approving a Special or Conditional Use Permit, the Director, Commission or Council when appropriate, shall find that the circumstances prescribed below do apply:
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;
 2. That the proposed location, size, design and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity, adjacent uses, residents, buildings, structures or natural resources. [Consolidated 10 and 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;~~
 3. ~~That the proposed use is compatible in scale, bulk, lot coverage, and density with adjacent uses; [Development Related].~~
 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;
 5. ~~That there will not be a harmful effect upon desirable neighborhood characteristics; [Duplicate of 2.]~~
 6. That the generation of traffic will not adversely impact the capacity and physical character of surrounding streets and that The traffic improvements and/or mitigation measures are provided in a manner consistent with the Circulation Element of the General Plan. [Consolidated with 7 removing reference to level of service.];

7. ~~The 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;~~
8. That there will not be significant harmful effects upon environmental quality and natural resources;
9. ~~That there are no other relevant negative impacts of the proposed use that cannot be reasonably mitigated.~~
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 operated or 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.~~
11. ~~That the proposed conditional use will comply with all of the applicable provisions of this title.~~
12. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures;
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;~~
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; and~~
15. ~~That access to the site and circulation on and off site is safe and convenient for pedestrians, bicyclists, equestrians and motorists.~~

That Use Permits requiring new construction also meet the Required Findings set forth with Chapter 9.17 "Development Permits".

Modify Section 9.17.080 "Required Findings" of Chapter 9.17 "Development Permits" as follows:

Before approving a Development Permit, the Planning Division, Director, Commission or Council when appropriate, shall find that the circumstances prescribed below apply:

- A. That the location, size, design, density and intensity of the proposed development 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;
- B. That the location, size and design of the proposed structures and improvements are compatible with the site's natural landforms, surrounding sites, structures and streetscapes and does not unnecessarily block public views from other buildings or from public ways, or visually dominate its surroundings; [Consolidated with C and F];
- C. ~~That the proposed development produces compatible transitions in the scale, bulk, coverage, density and character of development between adjacent land uses;~~

- D. ~~That the building, site and architectural design is accomplished in an energy efficient manner; [Covered under the Cal Green Code.]~~
- E. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures and 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; [Consolidated with H]
- F. ~~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;~~
- G. That the amount, location, and design of open space and landscaping conforms to the requirements of this Code, enhances the visual appeal and is compatible with the design and function of the structure(s), site and surrounding area;
- H. ~~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;~~
- I. That excessive and unsightly grading of hillsides does not occur, and the character of natural landforms such as knolls and the Mojave River and that existing vegetation and Joshua Trees are adequately protected and preserved where feasible and as required by this Code; [Consolidated with O]
- J. ~~That historically significant structures and sites are protected as much as possible in a manner consistent with their historic values;~~
- K. ~~That there are public facilities, services and utilities available at the appropriate levels or that these shall be installed at the appropriate time to serve the project as they are needed;~~
- L. ~~That access to the site and circulation on and off site is safe and convenient for pedestrians, bicyclists, equestrians and motorists;~~
- M. That the proposed development's generation of traffic will not adversely impact the capacity and physical character of surrounding streets and that traffic improvements and or mitigation measures are provided in a manner adequate to maintain a Level of Service C or better on arterial roads and are consistent with the Circulation Element of the Town General Plan; [Consolidated with N and remove reference to Level of Service(LOS) which is being replaced by Vehicle Miles Traveled under CEQA.]
- N. ~~That traffic improvements and or mitigation measures are provided in a manner adequate to maintain a Level of Service C or better on arterial roads and are consistent with the Circulation Element of the Town General Plan;~~
- O. ~~That environmentally unique and fragile areas such as the knolls, areas of dense Joshua trees, and the Mojave River area shall remain adequately protected;~~
- P. ~~That there will not be significant harmful effects upon environmental quality and natural resources;~~
- Q. That there will be ~~are~~ no other relevant negative impacts upon the environment of from the proposed ~~use~~ structure(s) that cannot be mitigated;
- R. That the ~~impacts which could result from the proposed development, and the proposed location, size, design and operating characteristics of the proposed development, and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety and welfare of the community or be materially injurious to properties or~~

improvements in the vicinity nor be contrary to the adopted General Plan; and *[Remove duplicative language.]*

- S. ~~That the proposed development will comply with each of the applicable provisions of this code, and applicable Town policies, except approved variances. [Duplicate of A].~~

FINDINGS

An amendment to the Development Code requires that the Planning Commission address two (2) required “Findings”, as listed within Development Code Section 9.06.060. For Commission consideration, the required Findings are listed below, along with a comment addressing each. If the Commission concurs with these comments, they may be adopted and forwarded to the Council for its consideration of the Development Code Amendment. If the Commission wishes modifications to the offered comments, after considering input and public testimony at the public hearing, modifications to the Findings and Code Amendment recommendations can be included into the information forwarded to the Council for consideration.

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

Comment: The General Plan is the blueprint for the community’s future growth. Specific Goals and Objectives are provided within each of the adopted General Plan’s State-mandated Elements. Many of these stated Goals and Objectives address the community’s ability to promote and strengthen single family and commercial development. The changes proposed to the administrative procedures and processing will encourage additional development while maintaining the existing quality site planning and design that enhances the aesthetics and economy of the Town.

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

Comment: Amending the Code as proposed under Development Code Amendment No. 2019-005 will eliminate an overlay district no longer applicable and will modify the administrative procedures and processes. The changes proposed will not be materially detrimental to public health, safety and welfare or injurious to the property or improvements in the vicinity and land use district in which the property is located.

NOTICING

Development Code Amendment No. 2019-005 was advertised as a public hearing in the Apple Valley News newspaper on June 7, 2019.

ENVIRONMENTAL REVIEW

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

RECOMMENDATION

Following receipt of public input and discussion by the Commission, it is recommended that the Commission move to approve Planning Commission Resolution No. 2019-005 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:
Draft Planning Commission Resolution No. 2019-005

PLANNING COMMISSION RESOLUTION NO. 2019-005

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL ADOPT DEVELOPMENT CODE AMENDMENT NO. 2019-005 AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY MODIFYING CHAPTER 9.17 AS IT RELATES TO ADMINISTRATIVE REVIEW OF PROJECTS LESS THAN 100,000 SQUARE FEET IN SIZE; MODIFYING CHAPTERS 9.17, 9.35, 9.37, 9.45 AND 9.47 AS IT RELATES TO REPLACING THE USE PERMIT PROCESS WITH A DEVELOPMENT PERMIT FOR PROJECTS INVOLVING PHYSICAL DEVELOPMENT ONLY; MODIFYING CHAPTERS 9.16, 9.17, 9.24 AND 9.25 AS IT RELATES TO MODIFICATION OF LANGUAGE RELATING TO THE EXTENSION OF TIME PROCESS FOR USE, DEVELOPMENT, VARIANCE AND DEVIATION PERMITS AND INCREASING THE TIME ALLOWANCE FOR A VARIANCE AND ALLOW FOR EXTENSIONS OF TIME FOR VARIANCES AND DEVIATION PERMITS; MODIFYING CHAPTER 9.12 TO INTRODUCE NEW LANGUAGE REGARDING THE DEVELOPMENT ADVISORY BOARD; REMOVAL OF OBSOLETE CHAPTER 9.66 “ENTERTAINMENT VILLAGE OVERLAY DISTRICT” AND MODIFYING CHAPTER 9.05 TO REMOVE ASSOCIATED REFERENCES TO THE ENTERTAINMENT VILLAGE OVERLAY DISTRICT; MODIFYING CHAPTERS 9.16 AND 9.17 BY REDUCING THE FINDINGS REQUIRED FOR APPROVAL OF A USE OR DEVELOPMENT PERMIT.

WHEREAS, The General Plan of the Town of Apple Valley was adopted by the Town Council on August 11, 2009; and

WHEREAS, Title 9 “Development Code” of the Municipal Code of the Town of Apple Valley was adopted by the Town Council on April 27, 2010; and

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

WHEREAS, Development Code Amendment No. 2019-005 is consistent with the General Plan and Municipal Code of the Town of Apple Valley;

WHEREAS, On May 1, 2019, the Town Council and Planning Commission held a joint workshop to discuss the Development Code and procedures that should be modified to enhance the Town’s business friendly environment;

WHEREAS, On May 1, 2019, the Town Council directed staff to initiated Development Code Amendments consistent with the Town’s desire to enhance its business friendly environment;

WHEREAS, Specific changes are proposed to the Development Code of the Town of Apple Valley Municipal Code by amending Chapter 9.17 as it relates to administrative review of projects less than 100,000 square feet in size; modifying Chapters 9.17, 9.35, 9.37, 9.45 and 9.47 as it relates to replacing the Use Permit process with a Development Permit for projects involving physical development only; modifying chapters 9.16, 9.17, 9.24 and 9.25 as it relates to modification of language relating to the extension of time process for Use, Development, Variance and Deviation Permits and increasing the time allowance for a Variance and allow for extensions of time for Variances and Deviation permits; modifying Chapter 9.12 to introduce new language

regarding the Development Advisory Board; removal of obsolete chapter 9.66 “Entertainment Village Overlay District” and modifying chapter 9.05 to remove associated references to the Entertainment Village Overlay District; and, modifying Chapters 9.16 and 9.17 by reducing the findings required for approval of a Use or Development Permit.

WHEREAS, On June 7, 2019, Development Code Amendment No. 2019-005 was duly noticed in the Apple valley News, a newspaper of general circulation within the Town of Apple Valley; and

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

WHEREAS, On June 19, 2019, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2019-005, receiving testimony from the public and

WHEREAS, Development Code Amendment No. 2019-005 is consistent with Title 9 “Development Code” of the Municipal Code of the Town of Apple Valley and shall promote the health, safety, and general welfare of the citizens of the Town of Apple Valley.

NOW, THEREFORE, BE IT RESOLVED that in consideration of the evidence presented at the public hearing, and for the reasons discussed by the Commissioners at said hearing, the Planning Commission of the Town of Apple Valley, California, finds and determines 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. 2019-005 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

Section 2. The project is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State Guidelines to Implement CEQA, which states that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA.

Section 3. Amend Section 9.17.020 “Applicability” of Chapter 9.17 “Development Permit” as follows:

“A Development Permit allows for the architectural/aesthetic review of structures permitted by this Code for the various zoning districts. A Development Permit is not required if a Conditional Use Permit has been submitted and approved where the Commission has addressed the aesthetics and site design issues required under a Development Permit.

A. A Development Permit approved by the Director shall be required for:

1. All commercial, office and industrial development 100,000 square feet or below.

2. Any addition, reconstruction or relocation totaling more than fifty (50) percent of the existing floor area, or 2,500 square feet, or exterior remodeling or construction altering the exterior appearance of a commercial, office or industrial building.”
- B. A Development Permit approved by the Planning Commission shall be required for:
1. All residential tract development (except single-family residential homes built on individual lots or tracts conditioned for custom home development).
 2. All commercial, office and industrial development greater than 100,000 square feet.”

Section 4. Modify Paragraph 3 of Section 9.35.040 “Site Development Standards” of Chapter 9.35 “Commercial and Office Districts to read as follows:

“All commercial development, including new construction, exterior modifications and additions, are subject to the provisions within Development Code Chapter 9.17 “Development Permits”.”

Section 5. Modify Footnote 5 in Table 9.35.040-A “Site Development Standards” of Chapter 9.35 “Commercial and Office Districts” as follows:

“(5) Up to 100 feet with a Development Permit reviewed and approved by the Planning Commission.”

Section 6. Modify Subsection A “Conversions of Existing Residential Structures” within Section 9.35.130 “Residential Structure Conversion/Relocation” of Chapter 9.35 “Commercial and Office Districts” as follows:

“A. Conversions of Existing Residential Structures

1. Structures originally designed for residential occupancy (including hotels and motels), or as accessory structures or additions to residences, and located in a non-residential district, shall not be used for any commercial or office use unless the building and site are improved to meet all applicable code requirements for a change in occupancy. This includes, but is not limited to, Building and Safety, Engineering, Fire District, Police, Water District and Planning Division requirements.
2. Conversions of residential structures to commercial or office use is subject to the approval of a Development Permit.
3. In approving a Development Permit the review authority shall impose conditions necessary to make the following findings:
 - a. The conversion will not adversely impact adjacent properties or the reasonable use thereof.
 - b. Adequate parking and circulation will be provided.
 - c. The architectural design and materials used will be compatible with the character of the neighborhood.
 - d. Public improvements that would normally be required for new construction will be provided.”

Section 7. Modify Subsection B “Intent” within Section 9.37.010 “Purpose and General Plan Consistency” of Chapter 9.37 “Commercial and Office District Design Standards” as follows:

“B. Intent. The overall intent of these standards is to provide a framework that defines the type of built environment desired by the Town that can be used by developers, Town staff, the Planning Commission and the Town Council to design and evaluate development proposals. These standards are also intended to be used as minimums to evaluate standards proposed as a part of future specific plans and Planned Commercial Developments. Final design review of all commercial developments, including new construction, exterior modifications and additions, are subject to the provisions of Development Code Chapter 9.17 “Development Permit”.”

Section 8. Remove Section 9.37.015 “Applicability” of Chapter 9.37 “Commercial and Office District Design Standards” in its entirety.

Section 9. Remove the following paragraph from Table 9.45.040-A “Site Development Standards” of Chapter 9.45 “Industrial Districts”.

~~Approval of a Conditional Use Permit shall be required for any new structure of 230,000 square feet or larger within any Commercial Zoning District or 750,000 square feet or larger within any Industrial Zoning District as provided in Chapter 9.16 “Conditional and Special Use Permits”. Said Conditional Use Permit requirement shall also apply to additions or alterations that result in an existing building being enlarged beyond the thresholds noted above.~~

Section 10. Modify Subsection C “Applicability” within Section 9.47.010 “Purpose and General Plan Consistency, Objectives and Applicability” of Chapter 9.47 “Industrial Design Standards” as follows:

“C. Applicability

The provisions of this Chapter shall apply to all new industrial development within the Town and any addition, remodeling, relocation or construction requiring a building permit within any industrial district.

The overall intent of these standards is to provide a framework that defines the type of built environment desired by the Town that can be used by developers, Town staff, the Planning Commission and the Town Council to design and evaluate development proposals. Final design review of all industrial development, including new construction, exterior modifications and additions, is subject to the provisions of Development Code Chapter 9.17 “Development Permit”.”

Section 11. Remove Section 9.47.015 “Applicability” of Chapter 9.47 “Industrial Design Standards” in its entirety.

Section 12. Modify Section 9.16.100 “Lapse of Permits/Expiration” of Chapter 9.16 “Conditional and Special Use Permits as follows:

“A. A Use Permit shall lapse and become void three (3) years following the date on which the use permit was approved, unless:

1. A building permit is issued, and construction is commenced and diligently pursued; or
2. A certificate of occupancy is issued; or

3. If no certificate of occupancy is required, the site is occupied in accordance with the approved Conditional Use Permit.
 4. An extension of time has been granted pursuant to the provisions within this chapter;
- B. A Use Permit shall expire if one of the following occurs:
1. The use, business, or service for which the Conditional Use Permit was issued terminates or ceases operation for a continuous period of time in excess of one (1) year; or
 2. The operation is discontinued or ceased because of destruction or damage by acts of God or by malicious acts and repair of the damaged facility has not commenced within two (2) years of the date of the destructive act.”

Section 13. Modify Section 9.16.155 “Extension of Time” of Chapter 9.16 “Conditional and Special Use Permits as follows:

- “A. Upon written request received within thirty (30) days prior to the original expiration date, the Community Development Director may grant an automatic Extension of Time to an approved Conditional/Special Use Permit, as provided by this Section. The use permit shall be extended beyond the applicable expiration date two (2) years, as specified, for any Conditional Use Permit or Special Use Permit.
- B. The original decision authority may, upon an application being filed sixty (60) days prior to expiration and for good cause, grant a final time extension not to exceed an additional two (2) years. Applications shall be made on a form to be provided by the Planning Division. Upon granting of an extension, the Planning Division, Director, Commission or Council when appropriate, shall ensure that the previously approved project is consistent with all current Development Code provisions and that the findings for approval of a Development in compliance with Section 9.16.080, Required Findings, of this Chapter, can be made.”

Section 14. Modify Section 9.17.100 “Lapse of Permits/Expiration” of Chapter 9.17 “Development Permits as follows:

- “A. Expiration. A Development Permit approval shall expire ~~within~~ two (2) years of the date the permit is issued unless it is otherwise conditioned or unless prior to the expiration of two (2) years:
1. A building permit is issued and substantial construction occurs and is diligently pursued towards completion of the project which was the subject of the Development Permit application. In addition, if after construction is commenced, work is discontinued for a period of two (2) years, then the Development Permit shall become null and void; or
 2. A certificate of occupancy is issued for the structure which was the subject of the Development Permit application.
 3. An extension of time has been granted pursuant to the provisions within this Chapter.
- B. Phased Projects. Projects may be built in phases if so approved by the reviewing authority. If a project is built in preapproved phases, each subsequent phase shall have two (2) years from the previous phase's date of construction commencement to the next phase's date of construction commencement unless another phasing schedule is approved, or the Development Permit shall become null and void. Phasing schedules approved with the Development Permit shall be followed or the Permit shall become subject to revocation.”

Section 15. Modify Section 9.17.110 “Extension of Time” of Chapter 9.17 “Development Permits” as follows:

- “A. Upon written request received within thirty (30) days prior to the original expiration date, the Community Development Director may grant an automatic Extension of Time to an approved Development Permit. The Development Permit may be extended beyond the applicable expiration date by three (3) years.
- B. The original decision authority may, upon an application being filed sixty (60) days prior to expiration, and for good cause, grant a final time extension not to exceed an additional two (2) years. Applications shall be made on a form to be provided by the Planning Division. Upon granting of an extension, the Planning Division, Director, Commission or Council when appropriate, shall ensure that the previously approved project is consistent with all current Development Code provisions and that the findings for approval of a Development in compliance with Section 9.17.080, Required Findings, of this Chapter, can be made.”

Section 16. Modify Section 9.24.110 “Lapse of Variance” of Chapter 9.24 “Variances” as follows:

“Expiration. A Variance approval shall expire two (2) years of the date the permit is issued unless prior to the expiration of two (2) years:

- A. Any required building permit related to the Variance is issued and substantial construction is commenced and diligently pursued toward completion; or
- B. An extension of time has been granted pursuant to the provisions within this Chapter.”

Section 17. Modify Section 9.24.120 “Time Extensions” of Chapter 9.24 “Variances” as follows:

- “A. Upon written request received within thirty (30) days prior to the original expiration date, the Community Development Director may grant an automatic Extension of Time to an approved Variance. The Variance may be extended beyond the applicable expiration date by three (3) years.
- B. The Planning Commission may, upon an application being filed sixty (60) days prior to expiration, and for good cause, grant a final time extension not to exceed an additional two (2) years. Applications shall be made on a form to be provided by the Planning Division. Upon granting of an extension, the Commission shall ensure that the Variance complies with all current Development Code provisions that apply. “

Section 18. Modify Section 9.25.070 “Lapse of Deviation Permit” of Chapter 9.25 “Deviation Permits as follows:

“A Deviation Permit shall lapse and shall become null and void three (3) years following the date on which the permit was approved unless any prior to the expiration of three (3) years:

- A. Any required building permit related to the permit is issued and substantial construction is commenced and diligently pursued toward completion.

- B. An extension of time has been granted pursuant to the provisions within this Chapter.”

Section 19. Add Section 9.25.120 “Time Extensions” of Chapter 9.25 “Deviation Permits” as follows:

“9.25.120 Time Extensions

- A. Upon written request received within thirty (30) days prior to the original expiration date, the Community Development Director may grant an automatic Extension of Time to an approved Deviation Permit. The Deviation Permit may be extended beyond the applicable expiration date by two (2) years.
- B. The original review authority may, upon an application being filed sixty (60) days prior to expiration, and for good cause, grant a final time extension not to exceed an additional two (2) years. Applications shall be made on a form to be provided by the Planning Division. Upon granting of an extension, the Review authority shall ensure that the Deviation complies with all current Development Code provisions that apply.”

Section 20. Modify Section 9.12.020 “Pre-Application Conference” of Chapter 9.12 “Permit Process and Approvals” as follows:

“A pre-application conference with the Planning Division is encouraged prior to formal submittal of a permit application. Upon preliminary review of the proposal, the Planning Division may recommend a conference with the Development Advisory Board. The Development Advisory Board is comprised of representatives from various Town Departments, the Apple Valley Fire Protection District, local water agencies and other agencies as deemed appropriate. It is strongly recommended that the conference take place prior to any substantial investment and submittal of entitlement application. “

Section 21. Remove Chapter 9.66 “Entertainment Village Overlay District” in its entirety.

Section 22. Modify Table 9.05.030-A “Zoning Districts” of Chapter 9.05 “Zoning” as follows:

District Title	Map Designation
Residential Districts	
Very Low Density Residential (1 du/5 or more gross acre)	R-VLD
Residential Agriculture (1 du/2.5 gross ac)	R-A
Low Density Residential (1 du/2.5 to 5 gross ac)	R-LD
Estate Residential (1 du/1 to 2.5 gross ac)	R-E
Estate Residential $\frac{3}{4}$ (1 du/0.75 net ac)	R-E $\frac{3}{4}$
Equestrian Residential (1 du/0.4 to 0.9 net ac)	R-EQ
Single Family Residential (1 du/0.4 to 0.9 net ac)	R-SF
Multi-Family Residential (2 to 20 du/net ac)	R-M

Mobile Home Park	MHP
Mixed Use	M-U
Planned Residential Development	PRD
Commercial/Office Districts	
Office Professional	O-P
General Commercial	C-G
Service Commercial	C-S
Regional Commercial	C-R
Mixed Use	M-U
Village Commercial	C-V
Industrial Districts	
Planned Industrial	I-P
Resource Extraction	I-RE
Other Districts	
Public Facilities	P-F
Open Space, Conservation	OS-C
Open Space, Recreation	OS-R
Specific Plan	SP
Overlay Districts	
Airport Overlay	A-1, A-2
Flood Hazard Area	FH
Seismic Hazard	SH
Ranchos Residential Overlay	RRO

Section 23. Modify Section 9.16.090 “Required Findings” of Chapter 9.16 “Conditional and Special Use Permits” as follows:

- “A. Before approving a Special or Conditional Use Permit, the Director, Commission or Council when appropriate, shall find that the circumstances prescribed below do apply:
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;
 2. That the proposed location, size, design and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties

or improvements in the vicinity, adjacent uses, residents, buildings, structures or natural resources.

3. 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;
4. That the generation of traffic will not adversely impact the capacity and physical character of surrounding streets and that The traffic improvements and/or mitigation measures are provided in a manner consistent with the Circulation Element of the General Plan;
5. That there will not be significant harmful effects upon environmental quality and natural resources;
6. That Use Permits requiring new construction also meet the Required Findings set forth with Chapter 9.17 "Development Permits".

Section 24. Modify Section 9.17.080 "Required Findings" of Chapter 9.17 "Development Permits" as follows:

"A. Before approving a Development Permit, the Planning Division, Director, Commission or Council when appropriate, shall find that the circumstances prescribed below apply:

1. That the location, size, design, density and intensity of the proposed development 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;
2. That the location, size and design of the proposed structures and improvements are compatible with the site's natural landforms, surrounding sites, structures and streetscapes and does not unnecessarily block public views from other buildings or from public ways, or visually dominate its surroundings;
3. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures and that quality in architectural design is maintained in order to enhance the visual environment of the Town;
4. That the amount, location, and design of open space and landscaping conforms to the requirements of this Code, enhances the visual appeal and is compatible with the design and function of the structure(s), site and surrounding area;
5. That excessive and unsightly grading of hillsides does not occur, and the character of natural landforms such as knolls and the Mojave River and that existing vegetation and Joshua Trees are adequately protected and preserved where feasible as required by this Code;
6. That the proposed development's generation of traffic will not adversely impact the capacity and physical character of surrounding streets and that traffic improvements and or mitigation measures are provided in a manner consistent with the Circulation Element of the Town General Plan;
7. That there will be no negative impacts upon the environment from the proposed structure(s) that cannot be mitigated; and
8. That the proposed development, and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety and welfare of the community

or be materially injurious to properties or improvements in the vicinity nor be contrary to the adopted General Plan.”

Approved and Adopted by the Planning Commission of the Town of Apple Valley this 19th day of June 2019.

Jason Lamoreaux, Chairman

ATTEST:

I, Maribel Hernandez, 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 19th day of June 2019 by the following vote, to-wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Ms. Maribel Hernandez, Planning Commission Secretary



Planning Commission Agenda Report

AGENDA DATE:	June 19, 2019	Item No. 6
APPLICANT:	Town of Apple Valley	
PROPOSAL:	To consider a General Plan Conformity Finding for the Town's Capital Improvement Program (CIP) for fiscal year 2019-2020.	
ENVIRONMENTAL DETERMINATION:	The General Plan Conformity Finding is not a project as defined by CEQA. Also, since this is a General Plan Consistency Finding, the adopted General Plan EIR would be considered adequate CEQA documentation.	
LOCATION:	Town wide	
STAFF PERSON:	Carol Miller, Assistant Director of Community Development	
RECOMMENDATION:	Adopt Planning Commission Resolution No. 2019-006 which finds the proposed Capital Improvement Program (CIP) for Fiscal Year 2019-2020 consistent with the goals and policies of the Town's General Plan.	

PROJECT SUMMARY:

The Planning Commission is being requested to review the attached Capital Improvement Program (CIP) for FY 2019-2020 to determine consistency with the General Plan. Ultimately, the Town Council is responsible for selection of the Capital Improvement Program projects and their prioritization. The Planning Commission's role is to determine whether the projects are consistent with the General Plan text, maps, and policies. The Commission is not asked to prioritize the projects.

ANALYSIS

The CIP is a document addressing the long-term capital improvement needs of the Town. The CIP also provides a relatively long-term (7-year) strategy that will be approved annually, in concept, by the Council. Section 65401 of the California Government Code requires the Planning Commission to annually review the CIP of the Town for consistency with the General Plan.

The attached CIP for FY 2019-2020 has been included for the Commission's reference. Staff has reviewed these projects and recommends adoption of the attached Resolution No. 2019-006 finding the CIP for FY 2019-2020 is consistent with the General Plan.

The General Plan is a document that looks ahead 20 years or more and establishes broad policies relating to growth. Although the General Plan identifies major infrastructure needs, such as major roadways, sewer trunk lines, and other public facilities, the General Plan does NOT contain a comprehensive detailed list of projects that the Town will build over the life of the plan. Therefore, one would not find most of the projects listed in the Capital Improvement Plan (CIP) specifically mentioned in the General Plan. Road improvement projects are an example of a typical CIP project. These projects are consistent with the General Plan Circulation Element or are depicted on the Circulation Map. Other examples are project design or maintenance projects are not included in the General

Plan, but does NOT conflict with any adopted policies, text, or maps in the General Plan. Improvements or upgrades to existing facilities, would be viewed in the same manner. Staff has reviewed the list of CIP projects against the policies, text, and maps in the Town's adopted General Plan. It has been determined that the projects are consistent and do not conflict with any parts of the General Plan. Based upon these findings, the staff recommends that the Planning Commission adopt Planning Commission Resolution No. 2019-006, making a finding of General Plan consistency for the Capital Improvement Plan 2019-2020 (attached).

Environmental Assessment: The General Plan Conformity Finding is not a project as defined by CEQA. Also, since this is a General Plan Consistency Finding, the adopted General Plan EIR would be considered adequate CEQA documentation.

RECOMMENDATION

Adopt Planning Commission Resolution No. 2019-006 which finds the proposed CIP for fiscal year 2019-2020 consistent with the goals and policies of the Town's General Plan.

ATTACHMENTS:

1. Planning Commission Resolution No. 2019-006
2. CIP FY 2019-2020 Project List

PLANNING COMMISSION RESOLUTION NO. 2019-006

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, FINDING THE PROPOSED CAPITAL IMPROVEMENT PROGRAM (CIP) FY 2019-2020 TO BE IN CONFORMANCE WITH THE GENERAL PLAN.

WHEREAS, on August 11, 2009 the Town Council adopted a Comprehensive General Plan Update for the Town of Apple Valley; and

WHEREAS, the Planning Commission is required by State law to review and find that all proposed projects included in the CIP, are consistent with the adopted General Plan; and

WHEREAS, in accordance with the California Environmental Quality Act, the General Plan Conformity Finding is not a project as defined by CEQA. Also, since this is a General Plan Consistency Finding, the adopted General Plan EIR would be considered adequate CEQA documentation.

WHEREAS, on June 19, 2019, the Planning Commission reviewed CIP for fiscal year 2019-2020, and hereby found to be in conformance with the Town of Apple Valley General Plan.

Section 1. Approved and Adopted by the Planning Commission of the Town of Apple Valley this 19th day of June, 2019.

Jason Lamoreaux, Chairman

ATTEST:

I, Maribel Hernandez, 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 19th day of June, 2019 by the following vote, to-wit:

Ms. Maribel Hernandez, Planning Commission Secretary

AYES:

NOES:

ABSENT:

ABSTAIN



Bear Valley Bridge (Mojave River Bridge)
Bear Valley Intersection Improvements
Dale Evans Parkway @ Waalew Road (Realignment)
Hwy 18 West End Widening (Phase 1, AVR Realignment)
SR-18 Realignment Between Tuscola Road and Kasota Road
Wika Road West End @ SR18 Access Improvements (Phase 1)



Apple Valley Desert Water Reuse Project
Apple Valley Road @ Bear Valley Rd SE Corner Improvements

Bear Valley Intersection Improvements
Hwy 18 Shoulder Median (Navajo to Central)
Paving Priorities (50% Categorical/50% Non-Categorical)
Wika Road West End @ SR18 Access Improvements (Phase 1)
Yucca Loma Bridge



Sewer Manhole Rehabilitation, Various Locations (Year 7 of 7)
Sewer Main/Manhole Replacement, Various Locations
Sewer Manhole Cover Replacement, Assess. Dist. 2A (Year 2 of 7)