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**TOWN OF APPLE VALLEY
PLANNING COMMISSION AGENDA**

WEDNESDAY, AUGUST 21, 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 AUGUST 21, 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 June 19, 2019.

PUBLIC HEARING ITEMS

2. **Development Code Amendment No. 2019-007. Continued from August 7, 2019 meeting.** The Planning Commission will be considering an amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code by modifying the entitlement process related to on-site sales of beer and wine only and adding provisions relating to artisan beverage makers that may include microbrews, craft distilleries and coffee roasters. Also recommended is a modification to allow food service establishments within the Public Facilities (P-F) zoning designation.

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, Senior Planner

RECOMMENDATION: Adopt Planning Commission Resolution No. 2019-007

OTHER BUSINESS

3. Pam Cupp, Senior Planner, will present the annual review of Development Permit projects that have been administratively approved. This report is available for public review at the Planning Division located at 14955 Dale Evans Parkway, Apple Valley, CA. No action is required – to receive and file only.

PLANNING COMMISSION COMMENTS

STAFF COMMENTS

ADJOURNMENT

The Planning Commission will adjourn to its next regularly scheduled Planning Commission meeting on September 4, 2019.

MINUTES

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

June 19, 2019

CALL TO ORDER

Chairman Lamoreaux called to order the regular meeting of the Town of Apple Valley Planning Commission at 6:00 p.m.

Roll Call

Present: Commissioner Arias, Commissioner Harrison, Vice-Chairman Kallen and Chairman Lamoreaux.

Absent: Commissioner Tinsley.

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 Arias.

APPROVAL OF MINUTES

1. Approval of Minutes for the regular meeting of March 20, 2019.

Motion by Commissioner Harrison, and second by Vice-Chairman Kallen to approve the minutes of March 20, 2019 with the following correction to Page 1-4:

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

“Vice-Chairman Kallen asked the Applicant if he agreed with all the Conditions of Approval.”

ROLL CALL VOTE

Yes: Chairman Lamoreaux
Vice-Chairman Kallen
Commissioner Harrison
Commissioner Arias

Noes: None

Abstain: None

Absent: Commissioner Tinsley

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

PUBLIC COMMENTS

None

PUBLIC HEARINGS

- 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. Walter Amling, Village Automotive

Chairman Lamoreaux opened the public hearing at 6:08 p.m.

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

Chairman Lamoreaux closed the public hearing at 6:13 p.m.

Chairman Lamoreaux asked the Applicant agreed to the Conditions of Approval.

Mr. Amling stated he was in agreement with the Conditions of Approval recommended by staff.

MOTION

Motion by Vice-Chairman Kallen, seconded by Commissioner Arias 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. Find the Facts presented in the staff report support the required Findings for approval and adopt the Findings.
4. Direct Staff to file the Notice of Exemption.

ROLL CALL VOTE

Yes: Chairman Lamoreaux
Vice-Chairman Kallen
Commissioner Harrison
Commissioner Arias

Noes: None

Abstain: None

Absent: Commissioner Tinsley

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

- 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

Chairman Lamoreaux opened the public hearing at 6:15 p.m.

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

Vice-Chairman Kallen asked if the front doors of the apartments next to the development would be facing the development. Ms. Miller stated there is an alley way separating the development and the apartments and the rear doors would be facing the development. Vice-Chairman also asked if noise became an issue in the future if there would be enough room for a sound barrier. Ms. Miller said there is no room for a wall barrier and that was the reason a noise study was conducted.

Vice-Chairman Kallen asked if any of the occupants of the apartment units provided a response to the development. Ms. Miller stated that the notice was sent to the property owner and no comments were received.

Commissioner Harrison asked the applicant about the ordering board. Mr. Pathi stated the tenant uses current technology on the ordering board that has a variable sound system that will adjust to the outside noise.

Chairman Lamoreaux asked the Applicant agreed to the Conditions of Approval.

Mr. Pathi stated he was in agreement with the Conditions of Approval recommended by staff.

MOTION

Motion by Commissioner Harrison seconded, Vice-Chairman Kallen that the Planning Commission move to approve Variance No 2019-002.

ROLL CALL VOTE

Yes: Chairman Lamoreaux
Vice-Chairman Kallen
Commissioner Harrison
Commissioner Arias

Noes: None

Abstain: None

Absent: Commissioner Tinsley

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

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.

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

Chairman Lamoreaux opened the public hearing at 6:28 p.m.

Commissioner Harrison stated the change was very significant. Ms. Cupp stated the change would allow parcel maps to record prior to pad development being completed.

Vice-Chairman Kallen asked how staff came to the 10,000 square feet. Ms. Cupp said it matched General Commercial (CG) and was consistent with other approved projects.

Chairman Lamoreaux closed the public hearing at 6:39 p.m.

MOTION

Motion by Vice-Chairman Kallen seconded, Commissioner Arias that the Planning Commission move to approve Planning Commission Resolution No. 2019-004, forwarding a recommendation that the Town Council amends the text of the General Plan 2019-001 and Development Code 2019-004.

ROLL CALL VOTE

Yes: Chairman Lamoreaux
Vice-Chairman Kallen
Commissioner Harrison
Commissioner Arias

Noes: None

Abstain: None

Absent: Commissioner Tinsley

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

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.

Chairman Lamoreaux opened the public hearing at 6:40 p.m.

Ms. Pam Cupp, Associate Planner, presented the staff report as filed with the Planning Division and included Town Attorney recommended modifications to the Resolution which added provisions that additional conditions could be added when requesting a time extension.

Vice-Chairman Kallen asked about the recommended change number "1" on the list thought the Planning Commission should still review 100,000 square foot projects. Vice-Chairman Kallen also asked about removing the Findings covering Historical Structures. Ms. Cupp said that F was removed since Historical Structures were covered under CEQA.

Commissioner Harrison also asked about the list and wanted an example of how item number "1" benefit developer. Ms. Cupp stated it would be a speedier process. Harrison asked about page 5-6 and completing the sentence.

Mr. Rice recommended modifying section 9.17.100 "Lapse of Permit" to read "Expiration of Development Permits shall expire 2 years following the date permit is issued and that all similar phrasing of the various time extension section also be modified in the like.

Chairman Lamoreaux close public comment at 6:54 p.m.

MOTION

Motion by Commissioner Arias, seconded, Commissioner Harrison that the Planning Commission move to approve Planning Commission Resolution No. 2019-005 including amending section 9.17.100 and forwarding a recommendation that the Town Council amend Title 9 "Development Code" of the Town of Apple Valley Municipal Code.

ROLL CALL VOTE

Yes: Chairman Lamoreaux
 Vice-Chairman Kallen
 Commissioner Harrison
 Commissioner Arias

Noes: None

Abstain: None

Absent: Commissioner Tinsley

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

OTHER BUSINESS

6. General Plan Conformity Finding for the Town’s Capital Improvement Program (CIP) for fiscal year 2019-2020. Carol Miller, Assistant Director of Community Development, presented the staff the report as filed with the Planning Division.

MOTION

Motion by Commissioner Harrison, seconded Vice-Chairman Kallen that the Planning Commission move to approve Planning Commission Resolution No. 2019-006

ROLL CALL VOTE

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

PLANNING COMMISSION COMMENTS

Vice-Chairman thanked Mr. Rice for reducing the introduction to the meeting.

Commissioner Arias asked when more Amendments were coming. Ms. Cupp said more amendments to come at the August 7th meeting.

Chairman Lamoreaux thanked staff for moving along the Amendments in a timely manner.

STAFF COMMENTS

Ms. Miller said staff was working off the list received from the May 1st Joint Meeting and staff was also taking the opportunity to clean up some of the issues that come up on a daily basis.

ADJOURNMENT

Motion by Vice-Chairman Kallen seconded by Commissioner Arias, and unanimously carried, to adjourn the meeting of the Planning Commission at 7:09 p.m. to its next regularly scheduled meeting on August 7, 2019.

Respectfully Submitted by:

Maribel Hernandez
Planning Commission Secretary

Approved by:

Chairman, Jason Lamoreaux



Planning Commission Agenda Report

DATE: August 21, 2019 (Continued from August 7, 2019) Item No. 2

CASE NUMBER: Development Code Amendment No. 2019-007

APPLICANT: Town of Apple Valley

PROPOSAL: The Planning Commission will be considering an amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code by modifying the entitlement process related to on-site sales of beer and wine only and adding provisions relating to artisan beverage makers that may include microbrews, craft distilleries and coffee roasters. Also recommended is a modification to allow food service establishments within the Public Facilities (P-F) zoning designation.

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.

PROJECT PLANNER: Pam Cupp, Senior Planner

RECOMMENDATION: Adopt Planning Commission Resolution No. 2019-007

BACKGROUND & DISCUSSION

On August 1, 2018 the Planning Commission discussed the existing broad nature of alcoholic beverage sales as identified within Section 9.35.030 "Permitted Uses" of Chapter 9.35 "Commercial and Office Districts". The discussion was initiated because the Department of Alcohol Beverage Control has added several new classes of licenses that appear to address the increasing popularity of micro-breweries, craft distilleries, wine tasting, etc. It was the consensus of the Commission that staff approach the Town Council to ask for permission to develop an amendment to the Code. On August 28, 2018, the Town Council was presented a report and agreed to initiate a Development Code Amendment that may introduce new categories of alcoholic beverage production and services.

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. Based upon that discussion, staff was directed by Council to work with the Planning Commission to identify a new use that could categorize microbrews, brewpubs, craft distilleries, coffee roasters and others that manufacture these edible products and typically include tasting, entertainment and food service. It was further directed that the Commission consider expanding the permitted uses within the Public Facilities (P-F) zoning designation to include restaurants.

Development Code Amendment No. 2019-007 includes an examination of the license types available through the California Department of Alcoholic Beverage Control (ABC) and provides recommendations for updates to the Town’s permitted uses and entitlements associated with various license types. This amendment also provides the Planning Commission the opportunity to consider allowing restaurants as a permitted use within the Public Facilities (PF) zoning district.

ANALYSIS

There is a current popularity for artisan beverage makers that would include microbrews, craft distilleries, custom coffee roasters and the like, which quite often include tasting, food service and sometimes entertainment. Due to lack of options, staff categorizes these types of businesses as manufacturing, which is a permitted use within the Service Commercial (C-S) and industrial zones. Past Commission interpretations have allowed alcohol tasting when ancillary to the retail sales for off-site consumption. The interpretation of tasting was broad and did not include any parameters for the amount of “tasting” that could be offered. Based upon the interpretation, tasting as an ancillary use to manufacturing and/or retail sales is considered a permitted use.

When the Planning Commission made its interpretation regarding tasting, the license types issued by the ABC were limited and did not include the same level of detailed customization that exists today. Consequently, several establishments that offered tastings had expanded their businesses offering limited food service and full-service beer and wine as permitted by the ABC license type issued originally.

Currently the Development Code identifies five (5) types of establishments that sell alcohol for on-site or off-site consumption.

TYPE OF USE ⁽¹⁾	DISTRICT ⁽¹⁾					
	O-P	C-G	C-S	C-R	C-V	M-U
3. Alcoholic Beverage Sales						
a. Liquor stores, no on-site consumption	-	P	P	P	P	CUP
b. Convenience stores, no on-site consumption	SUP	P	P	P	P	CUP
c. Grocery Stores, no on-site consumption	-	P	P	P	P	P
d. Restaurants, on-site consumption	SUP	P	P	P	P	P
e. Taverns, bars, on-site consumption	-	CUP	CUP	CUP	CUP	CUP

Staff reviewed several surrounding cities to learn how different jurisdictions categorize and entitle alcoholic beverage sales and found the Town’s Code to be deficient based upon current trends.

Items a, b and c above reference retail sales of alcohol for off-site consumption. Off-site packaged retail sales are licensed by the ABC in two (2) ways, beer and wine requires a Type 20 with beer, wine and distilled spirits requiring a Type 21. While the Town identifies three types of stores, the Code only has a definition for “Convenience Store” which is as follows:

“Any retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with same and having a gross floor area of less than five thousand (5,000) square feet.”

The City of Victorville requires a Use Permit for retail stores that are less than 8,000 square feet or dedicate over ten (10) percent of its floor area to alcohol sales. Hesperia requires a Use Permit for any off-sale alcohol establishments that has a License Type 20 or Type 21.

Staff is not aware of any issues that the Town has concerning packaged alcohol retail sales and is not recommending modification at this time. Staff does recommend adding a category of retail that addresses on-site consumption.

Item d above references restaurants with on-site consumption. Except for the Office Professional (O-P) zoning designation, restaurants with on-site consumption of beer, wine and distilled spirits are permitted in Apple Valley by right of zone. Victorville is similar except that the on-site sales of distilled spirits would require a Use Permit. The Development Code defines a restaurant as follows:

“Restaurant

A use providing preparation and retail sale of food and beverages; such uses include cafes, coffee shops, sandwich shops, ice cream parlors, fast food take-out (i.e., pizza), and similar uses, and may include licensed on-site provision of alcoholic beverage for consumption on the premises when accessory to such food service.”

The ABC will issue a License Type 41 for On-Sale Beer and Wine – Eating Place, which authorizes the sale of beer and wine for consumption on or off the premises where sold. License Type 47 is similar, except that is also authorizes the on-site sale of distilled spirits. Both license types require the establishment to operate and maintain the premises as a bona fide eating place that must maintain suitable kitchen facilities and must make actual and substantial sales of meals for consumption on the premises. The ABC recognizes the Business and Professions Code Section 23038 definition of “Bona Fide Public Eating Place” as follows:

“Bona fide public eating place” means a place which is regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking and an assortment of foods which may be required for ordinary meals, the kitchen of which must be kept in a sanitary condition with the proper amount of refrigeration for keeping of food on said premises and must comply with all the regulations of the local department of health.

“Meals” means the usual assortment of foods commonly ordered at various hours of the day; the service of such food and victuals only as sandwiches or salads shall not be deemed a compliance with this requirement. “Guests” shall mean persons who, during the hours when meals are regularly served therein, come to a bona fide public eating place for the purpose of obtaining, and actually order and obtain at such time, in good faith, a meal therein. Nothing in this section, however, shall be construed to require that any food be sold or purchased with any beverage.”

Staff is not aware of any issues that the Town has concerning alcohol service at a restaurant but does recommend a modification to the Permitted Use Table to reflect the required license Type(s) necessary for any restaurant that includes alcohol sales.

Item e above references taverns and bars, which except for the prohibition within the Office Professional (O-P) zoning designation, requires a Conditional Use Permit. There are three (3) license types that may be associated with tavern or bar.

- **Type 40** authorizes the sale of beer for consumption on or off the premises where sold. No wine or distilled spirits may be on the premises. Full meals are not required; however, sandwiches or snacks must be available. Minors are allowed on the premises.
- **Type 42** authorizes the sale of beer and wine for consumption on or off the premises where sold. No distilled spirits may be on the premises. Food service is not required, and minors are not allowed to enter and remain, except for musicians.
- **Type 48** authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold and authorizes the sale of beer and wine for off-site consumption. Food service is not required, and minors are not allowed to enter and remain, except for musicians.

Research into other communities showed a variety of processes in place regarding alcoholic beverage sales. Some cities require a conditional use permit for every establishment, while others require minor conditional use permit for some establishments and conditional use permits for other types of establishments. Prior Commission discussion suggested that a Conditional Use Permit may not be necessary in all instances. The Commission should consider if it may be appropriate to allow establishments with Type 40 (beer only) or Type 42 (beer and wine) with the approval of a Special Use Permit and require the Type 48 (beer, wine and distilled spirits) establishments to obtain a Conditional Use Permit.

With the emergence of the small-scale, owner operated beverage makers such as coffee roasters, microbreweries, brewpubs and craft distilleries, staff is recommending these types of uses be incorporated into Chapter 9.08 "Definitions" and incorporated into the permitted use table as appropriate. Classified as manufacturers, these small-scale beverage makers are permitted by right to operate within the Service Commercial (C-S) zone and include retail sales and small tasting, as permitted based upon the Planning Commission's interpretation noted above. Based upon the type of the establishment, the Commission should consider parameters, such as food service, that could allow a small-scale beverage maker to operate within other zoning designation, such as General Commercial (C-G) or Village Commercial (C-V).

For alcoholic beverage makers, the ABC offers a License Type 23 for Small Beer Manufacturer which allows for tasting and full servings of beer brewed on the premise. As such, the establishment could operate similar to a bar or tavern. The Commission should consider requiring an entitlement process for all alcoholic beverage makers in order to provide an opportunity for a public review to ensure continued protection of the health, safety and wellness of the community. Conditions of Approval would address issues such as hours of operation, parking, lighting, loitering, etc.

Staff is providing for the Commission's consideration the following modifications and additions to Chapter 9.08 "Definitions":

“Artisan Beverage Maker

A small business that independently produces custom beverages including but not limited to micro-breweries, craft distilleries, cider makers, coffee roasters, soda maker or cocktail mixers that may include tasting, food service and entertainment.”

“Beer Manufacturer

- A. Large Beer Manufacturer. A brewery operation that produces over 60,000 barrels per year.
- B. Small Beer Manufacturer. A brewery operation that produces less than 60,000 barrels per year.
- C. Micro-brewery. A small-scale brewery operation that generally produces approximately 15,000 barrels a year. Its beer products are primarily intended for local and/or regional consumption and may include a restaurant or bar on their manufacturing plant.
- D. Brewpub. A very small brewery with a restaurant where the beer it produces is sold in draft form exclusively at its own premises. This operation may sell other supplier’s bottled beer, including other hand-crafted or micro-brewed beers as well as wine or spirits to patrons for on-site consumption.”

Staff is providing for the Commission’s consideration the following modifications Line Item “3” of Section “C” “Commercial Uses” of Table 9.35.030-A “Permitted Uses” of Chapter 9.35 “Commercial and Office Districts”:

TYPE OF USE ⁽¹⁾	DISTRICT ⁽¹⁾					
	O-P	C-G	C-S	C-R	C-V	M-U
3. Alcoholic Beverage Sales <u>and/or Production</u> (Applicable ABC License Types)						
a. Liquor stores, no on-site consumption <u>(20,21)</u>	-	P	P	P	P	CUP
b. Convenience stores, no on-site consumption <u>(20,21)</u>	SUP	P	P	P	P	CUP
c. Grocery Stores, no on-site consumption <u>(20,21,86)</u>	-	P	P	P	P	P
<u>Retail sales with on-site consumption beer and wine only (40,42,86)</u> <u>(25% or more of floor area dedicated to off-sale retail)</u>	=	<u>SUP</u>	<u>SUP</u>	<u>SUP</u>	<u>SUP</u>	<u>SUP</u>
<u>Commercial Recreational Facilities (41,47)</u>	=	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
d. Restaurants, on-site consumption <u>(41,47)</u>	SUP	P	P	P	P	P
e. Taverns, bars, on-site consumption <u>beer or wine only (40,42)</u>	-	<u>SUP</u>	<u>SUP</u>	<u>SUP</u>	<u>SUP</u>	<u>SUP</u>
Tavern, Bar, <u>Nightclub</u> on-site consumption <u>(48)</u>	-	CUP	CUP	CUP	CUP	CUP

<u>Small Beer Manufacturer (23,77)</u>	:	:	<u>SUP</u>	:	:	:
<u>Micro-brewery/Brewpub including food or beverage service (23,75,77)</u>			<u>SUP</u>	<u>SUP</u>	:	<u>SUP</u>
<u>Craft Distillery (6,74)</u>	:	:	<u>CUP</u>	:	:	:
<u>Craft Distillery with Restaurant (6,20,74,6)</u>	:		<u>CUP</u>	<u>CUP</u>	:	<u>CUP</u>

Staff is further recommending the addition of line item 3, a category for artisan beverage makers be added to Section “F” of Table 9.35.030-A “Permitted Uses” of Chapter 9.35 “Commercial and Office Districts” as follows:

TYPE OF USE ⁽¹⁾	DISTRICT ⁽¹⁾					
	O-P	C-G	C-S	C-R	C-V	M-U

<i>F. Manufacturing/Production/Wholesale Uses</i>						
<u>3. Artisan Beverage Makers</u>						
<u>a. Non-alcoholic - production only</u>	:	:	<u>P</u>	:	:	:
<u>b. Non-alcoholic with food or beverage service</u>	:	<u>P</u>	<u>P</u>	:	<u>P</u>	<u>P</u>
<u>c. Small Beer Manufacturer</u>	:	:	<u>SUP</u>	:	:	:
<u>d. Micro-brewery/Brewpub including food or beverage service</u>	:	<u>SUP</u>	<u>SUP</u>	:	<u>SUP</u>	:
<u>e. Craft Distillery</u>	:	:	<u>CUP</u>	:	:	:
<u>f. Craft Distillery with Restaurant</u>	:		<u>CUP</u>	<u>CUP</u>	:	<u>CUP</u>

It should be noted that all businesses engaged in alcoholic beverage production or sales are subject to the regulations set forth by the California Department of Alcoholic Beverage Control. Future modification to ABC License “Types” may be addressed through the appropriate Conditions of Approval and/or revisited through future Code Amendments.

There are currently three (3) establishments within the Town of Apple Valley that would, with adoption of this amendment as recommended, be considered Legal Nonconforming Uses. These include Frogee’s Cocktail Lounge, The Wine Seller and Off the Grid Brewing Company. Staff has included within the draft resolution existing addresses to formally recognize the legal nonconforming status of these businesses. Any modification to floor area, ABC licensing type or public nuisance determination will trigger loss of non-conforming status and the appropriate entitlement process would be required.

At the May 1, 2019 joint meeting, the Town Council initiated a Development Code directing staff to work with the Planning Commission and discuss the possibility of allowing restaurants and other food services within the Public Facilities (P-F) zoning designation. The purpose of the P-F district is to protect the public health, safety and welfare by establishing regulations for public services and facilities within the Town. Some of the public and semi-public uses permitted within the P-F zone include private and public clubs, lodges and places of assembly. Indoor restaurants are compatible with other private and commercial uses already permitted within the P-F zoning

designation. Allowing restaurants or other indoor food services within the P-F zone could provide additional opportunity for sit-down dining establishments.

Staff is recommending the addition of Item “7” to Section F “Public and Semi-Public Uses” of Table 9.57.030-A “Permitted Uses” of Chapter 9.57 Public Facility Districts”:

TYPE OF USE	P-F DISTRICT
7. Restaurants – Indoor only, no drive-in or drive-thru	P

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. The proposed amendment would add new definitions and permitted uses to the Town’s Commercial of Office Districts that specifically address alcohol sales and uses together with other types of artisan beverage makers that may include tasting and food services. Also, included is the addition of restaurants as a permitted use in the Public Facility Districts. The proposed amendment will encourage new businesses and strengthen the local economy.

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. 2019-007 will incorporate detailed classifications and entitlement processes for alcohol serving establishments and alcoholic and non-alcoholic artisan beverage producers. Additionally, this amendment will allow restaurants to operate within the Public Facility (P-F) zoning designation. The addition of uses and entitlement processes reduces entitlement ambiguity, encourage new businesses and will not be detrimental to the public health, safety or welfare of the Town or its residents.

NOTICING

Development Code Amendment No. 2019-007 was advertised as a public hearing in the Apple Valley News newspaper on July 27, 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. 2019-007 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:
Alcoholic Beverage Control License Type and Descriptions
Draft Planning Commission Resolution No. 2019-007

Applicable Alcoholic Beverage Control License Types

01 - Beer Manufacturer

(Large Brewery over 60,000 barrels per year) This license is required by makers of beer in this State. An exception under State and Federal law allows a person to produce up to 100 gallons of beer a year for his/her own consumption (maximum of 200 gallons per household). See also Small Beer Manufacturer (Type 23) for brewpubs and micro-breweries. "Beer manufacturer" means any person, except those manufacturing pursuant to Section 23356.2 (home brew), engaged in the manufacture of beer (Section 23012).

04 - Distilled Spirits Manufacturer

The following pertains to new distilled spirits manufacturer's licenses issued after September 18, 1959. The Act defines a distilled spirits manufacturer as "...any person who produces distilled spirits from naturally fermented materials or in any other manner" (Section 23015). The functions of this type of license, in addition to that of production, include packaging, bottling, rectifying, flavoring and others as found within Section 23356. The functions apply only to distilled spirits; they do not include wine or beer.

06 - Still

The following applies to still licenses used for the making of alcoholic beverages or capable of such use. A still is "...any apparatus capable of being used for separating alcohol, or alcoholic vapors or solutions from alcohol or alcoholic solutions or mixtures ...". Stills used for laboratory purposes or stills used solely for producing distilled water or other non-alcoholic beverages are exempt from licensing (Section 23034). (Generally, this license is not required to produce fuel alcohol.)

20 - Off-Sale Beer & Wine

(Package Store) Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are allowed on the premises

21 - Off-Sale General

(Package Store) Authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises.

23 - Small Beer Manufacturer

(Less than 60,000 barrels per year) The privileges and limitations for this type of license are the same as for other beer manufacturers. The only difference is the license fees. (See also Type 1 – Beer Manufacturer.) The most common users of this license are operators of micro-breweries and brewpubs. These designations are not to be construed as legal definitions. Their use below is only for descriptive purposes.

"Micro-brewery": A small-scale brewery operation that generally produces approximately 15,000 barrels a year. Its beer products are primarily intended for local and/or regional

consumption. Typically, these operations are solely dedicated to the production of specialty beers, although some do have a restaurant or pub on their manufacturing plant.

“Brewpub”: Typically, a very small brewery with a restaurant where the beer it produces is sold in draft form exclusively at its own premises. This operation often sells other supplier’s bottled beer, including other hand-crafted or micro-brewed beers as well as wine to patrons for consumption on its premises. See “Special Note” below.

Special Note: A brewpub-restaurant (Type 75) license, authorized under Section 23396.3, has a limited brewing privilege and may sometimes be referred to as “brewpub.” However, the Type 75 is an on-sale retail license with significant differences/limitations in license privileges from those of a true “beer manufacturer” (either Type 01 or Type 23).

40 - On Sale Beer

(Bar, Tavern) Authorizes the sale of beer for consumption on or off the premises where sold. No wine or distilled spirits may be on the premises. Full meals are not required; however, sandwiches or snacks must be available. Minors are allowed on the premises

41 - On Sale Beer & Wine – Eating Place

(Restaurant) Authorizes the sale of beer and wine for consumption on or off the premises where sold. Distilled spirits may not be on the premises (except brandy, rum, or liqueurs for use solely for cooking purposes). Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.

42 - On Sale Beer & Wine – Public Premises

(Bar, Tavern) Authorizes the sale of beer and wine for consumption on or off the premises where sold. No distilled spirits may be on the premises. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required

47 - On Sale General – Eating Place

(Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on the licenses premises. Authorizes the sale of beer and wine for consumption off the licenses premises. Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.

48 - On Sale General – Public Premises

(Bar, Night Club) Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.

74 – Craft Distiller’s

Allows the production of no more than 100,000 gallons (liquid volume and not proof gallons) of distilled spirits per fiscal year (July 1 – June 30), excluding brandy that it manufactures or is manufactured for the licensee with a brandy manufacturer’s license.

Craft Distillers must report their production volume to ABC when applying for an annual renewal, and if they exceed the production cap their license will be renewed as a Type 4.

They can package, rectify, mix, flavor, color, label and export only their own products. They will only be able to sell to wholesalers, manufacturers (and their agents), winegrowers and rectifiers that hold a license authorizing the sale of spirits. Thus, Craft Distillers cannot make sales to retailers—however note the limited DTC exception for consumers outlined below.

75 - On Sale General – Brewpub

(Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on a bona fide eating place plus a limited amount of brewing of beer. This license does not authorize the sale of alcoholic beverages for consumption off the premises where sold. Minors are allowed on the premises

77 - Event Permit

Occasionally, a bar or a restaurant may want to hold a special event on an adjacent property which can accommodate additional patrons for a day. An example would be a Super Bowl party or a New Year's Eve party held in the parking lot of a restaurant or a bar. A type 77 California liquor license allows the licensee to expand their license on to property that is not currently licensed.

The establishment first must have an on-sale license and must then apply for the Event Permit. The permit is an add-on license and cannot be obtained as a stand-alone liquor license. Cost is \$131 and it allows up to four such events per year.

If you are a bar or restaurant owner, this is yet another way that you can increase your revenues, temporarily increase the capacity of your premises, and accommodate additional customers for special events.

86 - Instructional Tasting License

Issued to the holder of and premises of a Type 20 or Type 21 licensee, authorizes the tasting of alcoholic beverages as authorized to be sold from the off-sale premises, on a limited basis. Requires physical separation from the off-sale premises while tasting is taking place and generally requires the participation of a specifically-authorized manufacturer or wholesaler licensee.

PLANNING COMMISSION RESOLUTION NO. 2019-007

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL ADOPT DEVELOPMENT CODE AMENDMENT NO. 2019-007 AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE BY MODIFYING CHAPTER 9.08 “DEFINITIONS” AND CHAPTER 9.35 “COMMERCIAL AND OFFICE DISTRICTS” AS IT RELATES TO ARTISAN BEVERAGE MAKERS AND ALCOHOL SALES AND CHAPTER 9.57 “PUBLIC FACILITY DISTRICTS” TO ALLOW RESTAURANTS AS A PERMITTED USE.

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. 2019-007 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 Development Code Amendment, to allow restaurants as a permitted use in the Public Facility (PF) zoning district;

WHEREAS, On May 1, 2019 the Town Council initiated a Development Code Amendment to introduce new categories of alcoholic beverage production and services;

WHEREAS, Specific changes are proposed to the Development Code of the Town of Apple Valley Municipal Code by modifying Chapter 9.08 “Definitions” and Chapter 9.35 “Commercial and Office Districts” as it relates to artisan beverage makers and alcohol sales and modify Chapter 9.57 “Public Facility Districts” to allow restaurants as a permitted use;

WHEREAS, On July 26, 2019, Development Code Amendment No. 2019-007 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 August 21, 2019, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2019-007, 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. 2019-007 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 Chapter 9.08 to include the following definitions placed in alphabetical order:

“Artisan Beverage Maker

A small business that independently produces custom beverages including but not limited to micro-breweries, craft distilleries, cider makers, coffee roasters, soda maker or cocktail mixers that may include tasting, food service and entertainment.”

“Beer Manufacturer

- A. Large Beer Manufacturer. A brewery operation that produces over 60,000 barrels per year.
- B. Small Beer Manufacturer. A brewery operation that produces less than 60,000 barrels per year.
- C. Micro-brewery. A small-scale brewery operation that generally produces approximately 15,000 barrels a year. Its beer products are primarily intended for local and/or regional consumption and may include a restaurant or bar on their manufacturing plant.
- D. Brewpub. A very small brewery with a restaurant where the beer it produces is sold in draft form exclusively at its own premises. This operation may sell other supplier’s bottled beer, including other hand-crafted or micro-brewed beers as well as wine or spirits to patrons for on-site consumption.”

Section 4. Amend Section Line Item “3” of Section “C” “Commercial Uses” of Table 9.35.030-A “Permitted Uses” to read as follows:

TYPE OF USE ⁽¹⁾	DISTRICT ⁽¹⁾					
	O-P	C-G	C-S	C-R	C-V	M-U
3. Alcoholic Beverage Sales and/or Production (Applicable ABC License Types)						
a. Liquor stores, no on-site consumption (20,21)	-	P	P	P	P	CUP
b. Convenience stores, no on-site consumption (20,21)	SUP	P	P	P	P	CUP
c. Grocery Stores, no on-site consumption (20,21,86)	-	P	P	P	P	P
Retail sales with on-site consumption beer and wine only (40,42,86) (25% or more of floor area dedicated to off-sale retail)	-	SUP	SUP	SUP	SUP	SUP
Commercial Recreational Facilities (41,47)	-	P	P	P	P	P
d. Restaurants, on-site consumption (41,47)	SUP	P	P	P	P	P
e. Taverns, bars, on-site consumption beer or wine only (40,42)	-	SUP	SUP	SUP	SUP	SUP
Tavern, Bar, Nightclub on-site consumption (48)	-	CUP	CUP	CUP	CUP	CUP
Small Beer Manufacturer (23,77)	-	-	SUP	-	-	-
Micro-brewery/Brewpub including food or beverage service (23,75,77)		SUP	SUP	-	SUP	-
Craft Distillery (6,74)	-	-	CUP	-	-	-
Craft Distillery with Restaurant (6,20,74)	-	CUP	CUP	-	CUP	-
Large Beer Manufacturer (1)			P			

Section 5. Modify Section F of Table 9.35.030-A to add line item 3 as follows:

TYPE OF USE ⁽¹⁾	DISTRICT ⁽¹⁾					
	O-P	C-G	O-P	C-R	O-P	M-U
<i>F. Manufacturing/Production/Wholesale Uses</i>						
3. Artisan Beverage Makers						
a. Non-alcoholic - production only	-	-	P	-	-	-
b. Non-alcoholic with food or beverage service	-	P	P	-	P	P
c. Small Beer Manufacturer	-	-	SUP	-	-	-

d. Micro-brewery/Brewpub including food or beverage service	-	SUP	SUP	-	SUP	-
e. Craft Distillery	-	-	CUP	-	-	-
f. Craft Distillery with Restaurant	-	CUP	CUP	-	CUP	-

Section 6. Add line item “7” to Section F “Public and Semi-Public Uses” of Table 9.57.030-A “Permitted Uses” as follows:

TYPE OF USE	P-F DISTRICT
7. Restaurants – Indoor only, no drive-in or drive-thru	P

Section 7. It is hereby acknowledged that the following businesses are recognized as legal nonconforming alcohol establishments. Any modification to floor area, Alcoholic Beverage Control license type or public nuisance determination will trigger loss of non-conforming status and the appropriate entitlement process as identified within Table 9.35.030-A “Permitted Uses” will be required prior to any approvals.

- ABC Type 48 Frogees Cocktails at 21820 Highway 18
- ABC Type 23, 77 Off the Grid Brewing Company at 13615 John Glenn Road, Suite A
- ABC Type 20, 42 The Wine Seller located at 19341 Bear Valley Road, Suites 201/202
- ABC Type 42 The Social at 13692 Apple Valley Road, Suites 240 & 250

Approved and Adopted by the Planning Commission of the Town of Apple Valley this 21st day of August 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 21st day of August 2019 by the following vote, to-wit:

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

 Ms. Maribel Hernandez, Planning Commission Secretary



TOWN OF APPLE VALLEY MEMORANDUM

Get a Slice of the Apple.

TO: Planning Commission
FROM: Pam Cupp, Senior Planner
SUBJECT: Development Permit Annual Review
DATE: August 21, 2019

Attached is the annual review of Development Permits that have been administratively approved from August 1, 2018 through July 31, 2019.

This summary is for the Planning Commission's information only; no action is required. Staff is providing this information without the Conditions of Approval and associated site plans, per the Planning Commission's direction at the August 20, 2008 meeting. The annual review consists only of the attached spreadsheet. Should any Commissioner wish to review the supporting documentation, please let me know if a CD or hard copy is the preferred media.

Attachments: Development Permit Annual Review

DEVELOPMENT PERMIT ADMINISTRATIVE APPROVALS

8/01/2018 - 7/31/2019

B&S Status	Date Submitted	Planning Approval Date	Project Address	Applicant	Case I.D.	Project Description	Planner
Permit issued 7/24/2019 #82974	1/2/2019	1/15/2019	19250 Bear Valley Rd	Malak Architects/Ken McKently	DP 2019-001	Corky's - Restaurant remodel	Miller