



Town Council Agenda Report

Date: October 8, 2019 Item No. 13

To: Honorable Mayor and Town Council

Subject: DEVELOPMENT CODE AMENDMENT TO SECTION 9.08 "DEFINITIONS" ADDING A DEFINITION FOR "ASSEMBLY OF PRODUCTS" AND AMEND TABLE 9.35.030-A "PERMITTED USES" OF TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE TO ALLOW THE ASSEMBLY OF PRODUCTS AS AN ANCILLARY USE TO ANY PERMITTED OR CONDITIONALLY PERMITTED USE, AS LONG AS IT IS CONDUCTED WITHIN AN ENCLOSED BUILDING. THIS ANCILLARY USE WOULD BE ALLOWED IN ALL COMMERCIAL ZONES TOWN-WIDE.

From: Douglas Robertson, Town Manager

Submitted by: Lori Lamson, Assistant Town Manager

Budgeted Item: Yes No N/A

RECOMMENDED ACTION:

1. **Determine** that, pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), the project is exempt from environmental review because the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA.
2. **Find** the facts presented within the staff report, including the attached Planning Commission Resolution No. 2019-011 for August 7, 2019, support the required Findings for approval of the proposed Development Code Amendment and adopt the Findings.
3. **Move** to waive the reading of Ordinance No. 519 in its entirety and read by title only.
4. **Introduce** Ordinance No. 519 approving Development Code Amendment No. 2019-006; and

5. **Direct** staff to file a Notice of Exemption with the San Bernardino County Clerk of the Board.

SUMMARY:

On August 7, 2019, the Planning Commission adopted Planning Commission Resolution No. 2019-011 recommending the Town Council approve Development Code Amendment No. 2019-006. This amendment was initiated by the Town Council at the May 1, 2019 joint meeting of the Town Council and Planning Commission. The initiated amendment to the Development Code pertains to the ability to assemble products on-site of an approved commercial use. Staff was directed by the Council, to work with the Planning Commission to add specific language to the Development Code that would allow for assembly of products as an ancillary use to an approved commercial use. Presently, assembly of all goods is only identified and included in the definition of manufacturing, which has limited approved commercial zones.

ANALYSIS:

The types of businesses that this amendment may affect includes any business that might install products that need to be assembled prior to installation. These products could include, but are not limited to; solar panels, plumbing fixtures, computer or electronic devices. These types of businesses typically do not manufacture parts, but assemble parts manufactured off-site for the purpose of selling or providing a service of installation. This ancillary use would be complimentary to the approved commercial uses found at a fixed store front, office or place of business. This type of assembly does not fit the current definition of manufacturing and is silent regarding an ancillary use within the language of the Development Code.

In order to differentiate that the assembly of the product is not the sole purpose of the business, the language presented, requires that the assembly be an ancillary use to an approved commercial use. In addition, to ensure there are no impacts to the surrounding properties, the assembly must take place within an enclosed building. Assembly of products outside of a building would fall under the traditional manufacturing definition of the Development Code.

Staff is offering for the Town Council's consideration the following additional language as identified below.

CHAPTER 9.08 “DEFINITIONS”

Assembly of Products – Ancillary to an approved commercial use, production or putting together products, for the purpose of installation or sale of goods or service as allowed by an approved commercial activity.

TABLE 9.35.030-A “PERMITTED USES”

F. Manufacturing/Production/Wholesale Uses

STANDARDS ⁽¹⁾	DISTRICT					
	O-P	C-G	C-S	C-R	C-V	M-U
2. Assembly of Products, as an ancillary use to any approved commercial use described above in Table 9.35.030.A, that is conducted within a completely enclosed building.	P	P	P	P	P	P

FINDINGS:

In considering any Development Code Amendment, the Council and Commission are required by the Municipal Code to make special Findings. 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 clarify the ability of an approved commercial use to assemble products for sale or for service installation. The proposed ancillary use is required to be conducted within an enclosed building in order to reduce any impacts to surrounding properties. The proposed amendment would encourage new businesses and development and would not negatively impact existing development within the Town. The amendment will eliminate the current ambiguity of the Development Code and further clarify the difference between assembly of products and the manufacturing of goods.

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 require assembly of products to be entirely within an enclosed building and will still ensure 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

Development Code Amendment No. 2019-006 was advertised as a public hearing in the Apple Valley News newspaper on September 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.

ATTACHMENTS:

1. Ordinance No. 519
2. Planning Commission Resolution No. 2019-011

ORDINANCE NO. 519

AN ORDINANCE OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY MODIFYING SECTION 9.08 "DEFINITIONS" ADDING A DEFINITION FOR "ASSEMBLY OF PRODUCTS" AND AMEND TABLE 9.35.030-A "PERMITTED USES" OF TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE TO ALLOW THE ASSEMBLY OF PRODUCTS AS AN ANCILLARY USE TO ANY PERMITTED OR CONDITIONALLY PERMITTED USE, AS LONG AS IT IS CONDUCTED WITHIN A COMPLETELY ENCLOSED BUILDING. THIS ANCILLARY USE WOULD BE ALLOWED IN ALL COMMERCIAL ZONES TOWN-WIDE.

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, On May 1, 2019, the Town Council initiated a Development Code Amendment, to create provisions for accessory dwelling units located on corner lots;

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, On August 7, 2019, the Planning Commission of the Town of Apple Valley conducted a duly noticed public hearing on Development Code Amendment No. 2019-006, receiving testimony from the public and adopting Planning Commission Resolution No. 2019-011 forwarding a recommendation to the Council; and

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 9.35.030-A "Permitted Uses" by adding F.2 "Assembly of Products" and adding a definition of Assembly of Products to Chapter 9.08 "Definitions":

WHEREAS, Development Code Amendment No. 2019-008 is consistent with the Town's General Plan and Title 9 "Development Code" of the Municipal Code of the Town of Apple Valley and shall promote the health, safety, and general welfare of the citizens of the Town of Apple Valley; and

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

WHEREAS, On September 27, 2019, Development Code Amendment No. 2019-006 was duly noticed in the Apple valley News, a newspaper of general circulation within the Town of Apple Valley; and

WHEREAS, On October 8, 2019, the Town Council of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2019-006, receiving testimony from the public and

NOW, THEREFORE, the Town Council of the Town of Apple Valley, State of California, does ordain as follows:

Section 1. Find that the changes proposed by Development Code Amendment No. 2019-006 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

Section 2. Pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be determined that the Code amendment is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty, as with the proposed Code Amendment, that there is no possibility that the proposal approved under Development Code Amendment No. 2019-006 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

Section 3. Amend Section 9.08 “Definitions” to include the following definition placed in alphabetical order:

Assembly of Products – Ancillary to an approved commercial use, production or putting together products, for the purpose of installation or sale of goods or service as allowed by an approved commercial activity.

Section 4. Amend Section F. of Table 9.35.030-A “Permitted Uses” to read as follows:

TABLE 9.35.030-A PERMITTED USES

F. Manufacturing/Production/Wholesale Uses

STANDARDS ⁽¹⁾	DISTRICT					
	O-P	C-G	C-S	C-R	C-V	M-U
2. Assembly of Products, as an ancillary use to any approved commercial use described above in Table 9.35.030.A, that is conducted within a completely enclosed building.	P	P	P	P	P	P

Section 5. Notice of Adoption. The Town Clerk of the Town of Apple Valley shall certify to the adoption of this ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the Town in a manner permitted under Section 36933 of the Government Code of the State of California.

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

Section 7. Severability. If any provision of this Ordinance, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications and, to this end, the provisions of this Ordinance are declared to be severable.

Approved and Adopted by the Town Council and signed by the Mayor and attested to by the Town Clerk this 22 day of October, 2019.

Honorable Larry Cusack, Mayor

ATTEST:

Ms. La Vonda M. Pearson, Town Clerk

Approved as to form:

Approved as to content:

Mr. Thomas Rice, Town Attorney

Mr. Douglas B. Robertson, Town Manager

PLANNING COMMISSION RESOLUTION NO. 2019- 011

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL AMEND SECTION 9.08 "DEFINITIONS" ADDING A DEFINITION FOR "ASSEMBLY OF PRODUCTS" AND AMEND TABLE 9.35.030-A "PERMITTED USES" OF TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE TO ALLOW THE ASSEMBLY OF PRODUCTS AS AN ANCILLARY USE TO ANY PERMITTED OR CONDITIONALLY PERMITTED USE, AS LONG AS IT IS CONDUCTED WITHIN A COMPLETELY ENCLOSED BUILDING. THIS ANCILLARY USE WOULD BE ALLOWED IN ALL COMMERCIAL ZONES TOWN-WIDE.

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. 2019-006 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, directing staff to draft language that would clarify the ability of an approved commercial use to allow assembly of products for sale or installation;

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 9.35.030-A "Permitted Uses" by adding F.2 "Assembly of Products" and adding a definition of Assembly of Products to Chapter 9.08 "Definitions":

WHEREAS, On July 26, 2019, Development Code Amendment No. 2019-006 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 7, 2019, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2019-006, receiving testimony from the public and adopted Planning Commission Resolution No. 2019-011 recommending adoption of an Ordinance; and

WHEREAS, Development Code Amendment No. 2019-006 is 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 Development Code Amendment No. 2019-006 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 Section 9.08 “Definitions” to include the following definition placed in alphabetical order:

Assembly of Products – Ancillary to an approved commercial use, production or putting together products, for the purpose of installation or sale of goods or service as allowed by an approved commercial activity.

Section 4. Amend Section F. of Table 9.35.030-A “Permitted Uses” to read as follows:

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Approved and Adopted by the Planning Commission of the Town of Apple Valley this 7th 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 7th day of August 2019 by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Ms. Maribel Hernandez, Planning Commission Secretary