



## Town Council Agenda Report

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Date: November 12, 2019 Item No. 6

To: Honorable Mayor and Town Council

Subject: SECOND READING OF ORDINANCE 521 OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE TO ALLOW, THROUGH THE DEVIATION PERMIT PROCESS, A MINOR REDUCTION TO SETBACKS AND LANDSCAPING AND AN INCREASE IN BUILDING HEIGHT AND NUMBER OF COMPACT PARKING SPACES AND A REDUCTION OF PARKING SPACES REQUIRED FOR ACCESSORY USES FROM THE STANDARDS FOUND IN CHAPTER 9.35 "COMMERCIAL AND OFFICE DISTRICTS".

From: Douglas Robertson, Town Manager

Submitted by: Pam Cupp, Senior Planner  
Planning Department

Budgeted Item:  Yes  No  N/A

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### RECOMMENDED ACTION:

Adopt Ordinance No. 521

### SUMMARY:

At its October 22, 2019 meeting, the Town Council reviewed and introduced Ordinance No. 521 that will allow, through the deviation permit process, a minor reduction to setbacks and landscaping and an increase in building height and number of compact parking spaces and a reduction of parking spaces required for accessory uses from the standards found in Chapter 9.35 "Commercial and Office Districts".

### Fiscal Impact:

Not Applicable

### Attachments:

Ordinance No. 521

**ORDINANCE NO. 521**

**AN ORDINANCE OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY MODIFYING CHAPTER 9.25 “DEVIATION PERMITS” TO ALLOW A MINOR REDUCTION TO SETBACKS AND LANDSCAPING AND AN INCREASE IN BUILDING HEIGHT AND NUMBER OF COMPACT PARKING SPACES AND A REDUCTION OF PARKING SPACES REQUIRED FOR ACCESSORY USES THROUGH THE DEVIATION PERMIT PROCESS.**

**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 that would expand the use of Deviation Permits and allow for more flexibility for projections into yards and height limits through the Deviation Permit process;

**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 September 4, 2019, the Planning Commission of the Town of Apple Valley conducted a duly noticed public hearing on Development Code Amendment No. 2019-010, receiving testimony from the public and adopting Planning Commission Resolution No. 2019-012 forwarding a recommendation to the Council; and

**WHEREAS**, Specific changes are proposed to Title 9 “Development Code” of the Town of Apple Valley Municipal Code by amending Chapter 9.25 “Deviation Permits” to allow a minor reduction to setbacks and landscaping and an increase in building height and number of compact parking spaces and a reduction of parking spaces required for accessory uses through the deviation permit process.

**WHEREAS**, Development Code Amendment No. 2019-010 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 October 11, 2019, Development Code Amendment No. 2019-010 was duly noticed in the Apple valley News, a newspaper of general circulation within the Town of Apple Valley; and

**WHEREAS**, On October 22, 2019, the Town Council of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2019-010, 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. 2019-010 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. 2019-009 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

**Section 3.** Amend Section 9.25.030 “Standards” of Chapter 9.25 “Deviation Permits” as follows:

“9.25.030 - Standards

The Director may grant a Deviation Permit for only the following minor exceptions to the Development Code:

A. In Commercial Districts:

1. A maximum twenty-five (25) percent increase to building height.
2. A maximum fifty (50) percent reduction to the front yard setback, street side yard setback or setback to a dedicated alley.
3. A reduction to the required landscaped area as required for accessibility improvements or other factors as determined by the Director.
4. An increase of twenty-five (25) percent to the number of permitted compact parking spaces.
5. A reduction in required parking for accessory uses.

- B. In the Commercial and Industrial Districts:
  - 1. A porte cochere open on three sides may encroach up to fifty (50) percent, but not less than twenty-five (25) feet from the front property line.
  - 2. A maximum twenty (20) percent reduction in lot area, lot dimensions or setbacks.
- C. A maximum ten (10) percent reduction for interior side setbacks and a twenty (20) percent reduction for rear setbacks in Residential Districts.
- D. A maximum twenty (20) percent increase in the height of fences.
- E. For substandard vacant and developed commercial lots in all Commercial Districts, deviations to one or all of the following standards may be allowed:
  - 1. Reduction of landscape planter width in areas adjacent to parking areas or drive aisles no less than a minimum of two (2) feet in width. (Section 9.72.060)
  - 2. Reduction in the minimum landscape area of the site from ten (10) percent to no less than five (5) percent. (Section 9.35.040)
  - 3. Maximum ten (10) percent reduction for interior side setbacks and a twenty (20) percent reduction for rear setbacks.
- F. For an unenclosed addition to a primary residential structure, a maximum ten (10)-foot encroachment into the front yard or street side yard setback as indicated by the Ranchos Residential Overlay District, or as delineated on a Final Map, not to exceed the required setback determined by the zoning district.
- G. For new construction, or additions to existing multi-family or commercial structures, an encroachment into the front or street side yard setback as indicated by the Ranchos Residential Overlay District, or as delineated on a Final Map, not to exceed the required setback determined by the zoning district.”

**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 12th day of November, 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