



Town Council Agenda Report

Date: January 14, 2020 Item No. 10

To: Honorable Mayor and Town Council

Subject: SECOND READING OF ORDINANCE 523 OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE TO ALLOW SOLID METAL AND VINYL AS OPTIONAL MATERIALS FOR SOLID FENCING IN COMMERCIAL ZONES, ALLOW CARGO/SHIPPING CONTAINERS TO BE USED IN SERVICE COMMERCIAL (C-S) ZONE IN THE APPLE VALLEY VILLAGE, MODIFY THE DEFINITION AND FOOTNOTE RELATED TO SCREENING MATERIAL, AND PROVIDE DESIGN CRITERIA FOR CARGO CONTAINERS TO BE ALLOWED IN RESIDENTIAL ZONES. IN ADDITION, AN AMENDMENT TO THE NORTH APPLE VALLEY INDUSTRIAL SPECIFIC PLAN IS PROPOSED TO ALLOW SOLID METAL AND VINYL AS OPTIONAL MATERIALS FOR SOLID FENCING OF STORAGE AREAS.

From: Douglas Robertson, Town Manager

Submitted by: Lori Lamson, Assistant Town Manager

Budgeted Item: Yes No N/A

RECOMMENDED ACTION:

Adopt Ordinance No. 523

SUMMARY:

At its December 10, 2019 meeting, the Town Council reviewed and introduced Ordinance No. 523 that amends the Development Code and the North Apple Valley Industrial Specific Plan pertaining to the ability to expand the types of fencing material for screening storage areas in commercial and industrial areas, while restricting the use of chain link when viewed from public right-of-way. Additionally, the amendment would allow for cargo containers to be used in the Service Commercial (C-S) zone, provided that the location and appearance standards currently in the Code for the containers allowed Village Commercial (C-V) zone are maintained. The amendment restricts the use of cargo containers in the residential zone and provides a description of what needs to be done to the exterior of a cargo container in order to allow it in a residential zone. Ordinance No. 523 has been scheduled for adoption at the January 14, 2020 Town Council Meeting.

Fiscal Impact:

Not Applicable

Attachments:

Ordinance No. 523

ORDINANCE NO. 523

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 9.08 “DEFINITIONS”, CHAPTER 9.35 “COMMERCIAL AND OFFICE DISTRICTS”, CHAPTER 9.36 “SPECIFIC USE REGULATIONS /COMMERCIAL AND OFFICE”, CHAPTER 9.29 “SPECIFIC USE REGULATIONS FOR RESIDENTIAL DISTRICTS” 9.31 “RESIDENTIAL DESIGN STANDARDS” TO ALLOW SOLID METAL AND VINYL AS OPTIONAL MATERIALS FOR SOLID FENCING IN COMMERCIAL ZONES, ALLOW CARGO/SHIPPING CONTAINERS TO BE USED IN C-S ZONE IN THE APPLE VALLEY VILLAGE, AND PROVIDE DESIGN CRITERIA FOR CARGO CONTAINERS TO BE ALLOWED IN RESIDENTIAL ZONES. IN ADDITION, AMEND THE NORTH APPLE VALLEY INDUSTRIAL SPECIFIC PLAN SECTION 3 “DEVELOPMENT STANDARDS AND GUIDELINES” TO ALLOW SOLID METAL AND VINYL AS OPTIONAL MATERIALS FOR SOLID FENCING OF STORAGE AREAS.

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, the North Apple Valley Industrial Specific Plan (SP No. 2005-001) was adopted by the Town Council on October 24, 2006; and

WHEREAS, the North Apple Valley Industrial Specific Plan has been previously modified by the Town Council seven other instances, on the recommendation of the Planning Commission; and

WHEREAS, Development Code Amendment No. 2019-014 and Amendment No. 8 of Specific Plan No. 2005-001 “North Apple Valley Industrial Specific Plan”, are consistent with the General Plan and Municipal Code of the Town of Apple Valley;

WHEREAS, On September 10, 2019, the Town Council initiated a Development Code Amendment, directing staff to draft language that would allow solid metal and vinyl as optional materials for solid fencing in commercial zones, allow cargo/shipping containers to be used in C-S zone in the Apple Valley Village, and provide design criteria for cargo containers to be allowed in residential zones. In addition, amend the North Apple

Valley Industrial Specific Plan to allow solid metal and vinyl as optional materials for solid fencing of storage areas.

; **WHEREAS**, Specific changes are proposed to Title 9 “Development Code” of the Town of Apple Valley Municipal Code by amending Chapter 9.35 “Commercial and Office Districts”, Chapter 9.36 “Specific Use Regulations/Commercial and Office”, Chapter 9.29 “Specific Use Regulations For Residential Districts” 9.31 “Residential Design Standards” to allow solid metal and vinyl as optional materials for solid fencing in commercial zones, allow cargo/shipping containers to be used in Service Commercial C-S zone in the Apple Valley Village, and provide design criteria for cargo containers to be allowed in residential zones; and,

WHEREAS, Specific changes are proposed to Specific Plan No. 2005-001 “North Apple Valley Industrial Specific Plan” Section No. 3” “Development Standards and Guidelines” to allow solid metal and vinyl as optional materials for solid fencing of storage areas; and

WHEREAS, on November 29, 2019, Development Code Amendment No. 2019-014 and Amendment No. 8 of Specific Plan No. 2005-001 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

WHEREAS, staff has determined that the project is not subject to the California Environmental Quality Act (CEQA) pursuant to 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 November 6, 2019, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised the public hearing on Development Code Amendment No. 2019-014 and Amendment No. 8 of Specific Plan No. 2005-001 receiving testimony from the public; and

WHEREAS, Development Code Amendment No. 2019-011 and Amendment No. 8 of Specific Plan No. 2005-001 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 Council Members at said hearing, the Town Council of the Town of Apple Valley, California, does hereby ordain as follows, including making the following findings and actions:

Section 1. Find that the changes proposed by Development Code Amendment No. 2019-014 and Amendment No. 8 to Specific Plan No. 2005-001 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. 2019-014 and Amendment No. 8 to Specific Plan No. 2005-001 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

Section 3. Amend the first and second paragraphs of subsection A. “Outdoor Storage” of Section 9.35.080 “Outdoor Storage and Use” of Chapter 9.35 “Commercial and Office Districts” to read as follows:

A. *Outdoor Storage.* Outdoor storage of materials and equipment is permitted in all commercial districts and the M-U district, with the exception of the Office Professional (O-P) district, when it is clearly incidental to the permitted use on the site and is in compliance with the provisions of this Chapter. Such storage shall be located in the rear one-half of the site and screened completely from view from any adjoining property or roadway by a solid wall or fence at least six (6) feet in height, but not to exceed ten (10) feet in height. Said fence or wall shall be constructed of or finished with materials that are compatible with those of the primary building on the site. In the M-U district, outdoor storage shall be screened by a solid decorative block or stucco wall. Acceptable materials can include, masonry, stucco, solid metal, but shall not include corrugated metal. Rigid vinyl panels may also be approved by the Director, when consistent with the provisions of the Development Code. Items that are being stored outdoors shall not be stacked to a height exceeding the height of the required wall or fence.

In the C-S and C-V districts, when on-site barriers are necessary for security, open view fencing shall be used. Open view fencing shall have pilasters of materials that complement the building architecture. Metal rails and pickets shall be sufficiently spaced to restrict trespassing. Spires or spikes or other detailing may be used to impede trespassing. Chain link with metal slats can be used in these districts as long as the slats are maintained in such a manner so the material being stored behind the fencing cannot be seen directly or indirectly through the fence. Barbed wire, razor wire, electrification or similar barriers are only permitted for law enforcement agency vehicle impound yards.

Section 4. Amend subsection E. “Cargo Containers” of Section 9.35.080 “Outdoor Storage and Use” of Chapter 9.35 “Commercial and Office Districts” to read as follows:

E. *Cargo Containers.* In the Village Commercial (C-V) and Service Commercial (C-S) Districts, cargo containers shall be permitted subject to Section 9.36.170.D.

Section 5. Remove Footnote (9) of Table 9.35.040.A “Site Development Standards” of Section 9.35.040 “Site Development Standards” of Chapter 9.35 “Commercial and Office Districts”, and renumber remaining footnotes.

Section 6. Remove “Screening Materials” from Chapter 9.08 “Definitions”.

Section 7. Amend Paragraph D. “Cargo Container” and subparagraph 7. of Paragraph D. “Cargo Container” of Section 9.36.170 “Outdoor Displays, Sales and Uses”

of Chapter 9.36 “Specific Use Regulations/Commercial and Office” to read as follows:

D. Cargo Container. All properties zoned Village Commercial (C-V) and Service Commercial (C-S) within the Apple Valley Village area may use a cargo container for storage purposes subject to a Minor Development Permit and conforms to the below standards. For this purpose the Apple Valley Village area shall be defined as the area east of Navajo Road, south of Esaws Road, west of Central Road and north of Nisqually Road:

7. Placement of the container shall meet all required setback standards.

Section 8. Amend Section 9.29.020 “Accessory Uses & Structures” of Chapter 9.29 “Specific Use Regulations for Residential Districts” to read as follows:

E. Architectural Compatibility. Accessory structures larger than one hundred twenty (120) square feet in area or taller than eight (8) feet in height shall meet the architectural compatibility with primary structure requirements for residential districts found in Chapter 9.31, *Residential Design Standards* of this Code.

Section 9. Amend paragraph 1. of subsection E “Architectural Compatibility” of “Section 9.29.020 “Accessory Uses & Structures” of Chapter 9.29 “Specific Use Regulations for Residential Districts” to read as follows:

1. Accessory structures larger than one-hundred, twenty (120) square feet in area or taller than eight (8) feet in height and located in front of the back line of the house shall be constructed of materials and colors which are similar to the primary building on the site. Structures built on site, or structures assembled from modular or similar units on site, or structures assembled off site and moved on site as one unit may not use metal exteriors except as described below and as described in Section 9.29.022. Structures built, assembled or fabricated, off site having metal exteriors, such as metal containers, cargo containers, freight and similar containers, modified trailers, modified rail-road cars, butler buildings, and the like, are expressly prohibited, unless said container and roofline/structure is covered or skinned with siding materials (i.e. wood, stucco, or masonry) similar to the primary residence and the design is compatible with the primary residence. All applicable building permits for alteration of prefabricated structure shall be required.

Section 10. Amend paragraph 1. “Accessory Structures” of subsection A. “Accessory Features” of Section 9.31.030 “Single Family Architectural Design Standards” of Chapter 9.31 “Residential Design Standards” to read as follows:

1. **Accessory Structures.** The design of accessory structures (greater than 120 square feet) including second units, garages, guesthouses, cabanas and storage buildings shall be architecturally compatible with the primary structure through the use of compatible building materials, walls/roofs/trellises, fence/wall connections and/or landscaping. Cargo containers or prefabricated shipping containers shall be expressly prohibited with the exception of the acceptable modifications described in Section 9.29.020.

Section 11. Amend North Apple Valley Industrial Specific Plan subparagraph 2 of

paragraph a. "General Provisions" of subsection 4. "Walls and Fences" of subsection F. "Design Standards and Guidelines" of Section 3 "Development Standards and Guidelines" to read as follows:

2. The design and architecture of all walls, retaining walls, and fences shall reinforce the Town's desert character by the use of natural looking materials which can be expected to withstand the extremes of the high desert climate. Masonry, stucco, or solid metal are examples of acceptable materials. Rigid vinyl panels can be approved by the Director when consistent with the provisions of this Specific Plan and the Development Code. Corrugated metal shall be prohibited

Section 12. 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 14th day of January, 2020.

Honorable Scott Nassif, 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