



Town Council Agenda Report

Date: August 25, 2020 Item No. 5

To: Honorable Mayor and Town Council

Subject: DEVELOPMENT CODE AMENDMENT NO. 2020-002 IS A REQUEST TO MODIFY TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE BY REMOVING CHAPTER 9.15 "COMMERCIAL/INDUSTRIAL REVITALIZATION PERMITS" AS OBSOLETE. ALL APPLICABLE REDUCTIONS TO DEVELOPMENT STANDARDS AFFORDED THROUGH CHAPTER 9.15 WOULD REMAIN AS AVAILABLE OPTIONS THROUGH THE DEVIATION PERMIT PROCESS.

From: Douglas Robertson, Town Manager

Submitted by: Pam Cupp, Senior Planner
Planning Department

Budgeted Item: Yes No N/A

RECOMMENDED ACTION

- A. **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.
- B. **Find** the facts presented within the staff report, including the attached Planning Commission Resolution No. 2020-002 adopted July 15, 2020, support the required Findings for approval of the proposed Development Code Amendment and adopt the Findings.
- C. **Move** to waive the reading of Ordinance No. 533 in its entirety and read by title only.
- D. **Introduce** Ordinance No. 533 approving Development Code Amendment No. 2020-002; and

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

BACKGROUND

At the May 1, 2019 joint meeting of the Town Council and Planning Commission. Staff was directed by the Council to work with the Planning Commission to expand Section 9.15 “Commercial/Industrial Revitalization Permits” to allow for new construction and expansion in Village and infill development Town-wide by allowing more exemptions and relief in parking, setbacks, etc. to be reviewed by the Director.

ANALYSIS

The Revitalization Permit offers several options for reduction to development standards. This relief is available to existing commercial and industrial developments that were constructed prior to adoption of the original Towns Development Code. The intent of Chapter 9.15 “Commercial/Industrial Revitalization Permits” was to encourage the revitalization of the commercial and industrial areas, particularly the Village.

Upon review of the section, it was found that the relief offered through the Revitalization Permit is less than the reductions available through the Deviation and Development Permit processes. The intent of the Commercial/Industrial Revitalization Permit was to provide a process and incentives to encourage redevelopment; however, the reduced standards offered through this process are today’s development standard, or reductions currently available through the Deviation Permit process.

Staff could not locate records of a Revitalization Permit having ever been utilized; therefore, it is quite possible that the Chapter was carried over from the Town’s adoption of the County’s Development Code. The Commission has recommended that Chapter “Commercial/Industrial Revitalization Permits” be deemed obsolete and removed from the Code in its entirety. The Commission further recommends the following modification to Paragraph E of Section 9.25.030 “Standards” of Chapter 9.25 “Deviation Permits”:

- E. For **new construction on** substandard **lots or** ~~vacant and~~ **revitalization of** developed commercial **or industrial properties** ~~lots in all Commercial Districts,~~ deviations to one or all of the following standards may be allowed **when reviewed concurrently with a Development Permit:**
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.

FINDINGS

An Amendment to the Development Code requires two (2) “Findings”, as listed within Development Code Section 9.06.060. For consideration, the required Findings are listed below, along with a comment addressing each. If there is concurrence with these

comments, it may be adopted. If the Council wishes to modify the offered comments, after considering input and public testimony at the public hearing, modifications to the Findings and Code Amendment can be included.

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 will remove Development Code Chapter 9.15 "Commercial/Industrial Revitalization Permit" as obsolete, providing the same opportunity for reduced standards through the Deviation Permit process. The proposal will not create any changes to current development standards or procedures. Therefore, as proposed, this amendment is consistent with the General Plan.

B. 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 remove Development Code Chapter 9.15 "Commercial/Industrial Revitalization Permit" as obsolete and providing an opportunity for reduced standards through the Deviation Permit process instead. The proposal will not create any changes to current development standards or procedures. Therefore, the changes proposed under Development Code Amendment No. 2020-002 will not be materially detrimental to the public health, safety or welfare of the Town or its residents.

NOTICING

Development Code Amendment No. 2020-002 was advertised as a public hearing in the Apple Valley News newspaper on August 14, 2020.

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.

FISCAL IMPACT

None

ATTACHMENTS:

1. Ordinance No. 533

2. Planning Commission Resolution No. 2020-002

ORDINANCE NO. 533

AN ORDINANCE OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY REMOVING CHAPTER 9.15 "COMMERCIAL/INDUSTRIAL REVITALIZATION PERMIT" AS OBSOLETE, AND MODIFY CHAPTER 9.25 "DEVIATION PERMITS" BY INCLUDING COMMERCIAL AND INDUSTRIAL REVITALIZATION AS AN ELIGIBLE ACTIVITY TO RECEIVE DEVIATION CONSIDERATION.

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 expand Section 9.15 "Commercial/Industrial Revitalization Permits" to allow for new construction and expansion in Village and Infill development Town-wide by allowing more exemptions and relief in parking, setbacks, etc. to be reviewed by the Director;

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 July 15, 2020, the Planning Commission of the Town of Apple Valley conducted a duly noticed public hearing on Development Code Amendment No. 2020-002, receiving testimony from the public and adopting Planning Commission Resolution No. 2020-002 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 removing Chapter 9.15 "Commercial/Industrial Revitalization Permits" as obsolete and add commercial and industrial revitalization as an eligible activity to receive Deviation Permit consideration; and

WHEREAS, Development Code Amendment No. 2020-002 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 August 14, 2020, Development Code Amendment No. 2020-002 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

WHEREAS, On August 25, 2020, the Town Council of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2020-002, 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. 2020-002 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. 2020-002 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

Section 3. Find that Chapter 9.15 “Commercial/Industrial Revitalization Permits” is obsolete and delete this Chapter in its entirety.

Section 4. Amend Paragraph E of Section 9.25.030 “Standards” of Chapter 9.25 “Deviation Permits” to read as follows:

- E. “For new construction on substandard lots, or revitalization of developed commercial or industrial properties, deviations to one or all of the following standards may be allowed when reviewed concurrently with a Development Permit:
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.”

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 ____ day of _____, 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

PLANNING COMMISSION RESOLUTION NO. 2020-002

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL ADOPT DEVELOPMENT CODE AMENDMENT NO. 2020-002 AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY REMOVING CHAPTER 9.15 “COMMERCIAL/INDUSTRIAL REVITALIZATION PERMIT” AS OBSOLETE, AND MODIFY CHAPTER 9.25 “DEVIATION PERMITS” BY INCLUDING COMMERCIAL AND INDUSTRIAL REVITALIZATION AS AN ELIGIBLE ACTIVITY TO RECEIVE DEVIATION CONSIDERATION.

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, On May 1, 2019, the Town Council initiated a Development Code Amendment, directing staff to work with the Planning Commission to expand Section 9.15 “Commercial/Industrial Revitalization Permits” to allow for new construction and expansion in Village and Infill development Town-wide by allowing more exemptions and relief in parking, setbacks, etc. to be reviewed by the Director;

WHEREAS, Specific changes are proposed to Title 9 “Development Code” of the Town of Apple Valley Municipal Code by removing Chapter 9.15 “Commercial/Industrial Revitalization Permits” as obsolete and including commercial and industrial revitalization as an eligible activity to receive Deviation Permit consideration; and

WHEREAS, on June 19, 2020, Development Code Amendment No. 2020-002 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

WHEREAS, Development Code Amendment No. 2020-002 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.

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 July 15, 2020 the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised the public hearing on Development Code Amendment No. 2020-002 receiving testimony from the public; and

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, does hereby resolve, order and determine 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. 2020-002 are consistent with the Land Use Element goals and policies of the Town's General Plan and Title 9 "Development Code" of the Municipal Code of the Town of Apple Valley and shall promote the health, safety, and general welfare of the citizens of the Town of Apple Valley.

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. Find that Chapter 9.15 "Commercial/Industrial Revitalization Permits" is obsolete and delete this Chapter in its entirety.

Section 4. Amend Paragraph E of Section 9.25.030 "Standards" of Chapter 9.25 "Deviation Permits":

- F. For new construction on substandard lots, or revitalization of developed commercial or industrial properties, deviations to one or all of the following standards may be allowed when reviewed concurrently with a Development Permit:
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."

Approved and Adopted by the Planning Commission of the Town of Apple Valley this 15th day of July 2020.

Chairman Bruce Kallen

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 15th day of July 2020, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Ms. Maribel Hernandez, Planning Commission Secretary