



## Town Council Agenda Report

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Date: September 8, 2020 Item No. 6

To: Honorable Mayor and Town Council

Subject: SECOND READING OF ORDINANCE 533 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 PERMITS" AS OBSOLETE AND MODIFYING CHAPTER 9.25 "DEVIATION PERMITS" TO INCLUDE COMMERCIAL AND INDUSTRIAL REVITALIZATION AS AN ELIGIBLE ACTIVITY TO RECEIVE DEVIATION CONSIDERATION (DCA 2020-002).

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. 533

### **BACKGROUND**

At its August 25, 2020 meeting, the Town Council introduced Ordinance No. 533 removing Development Code Chapter 9.15 "Commercial/Industrial Revitalization Permits" as obsolete and modifying Chapter 9.25 "Deviation Permits" to include commercial and industrial revitalization as an eligible activity to receive Deviation consideration. Ordinance No. 533 has been scheduled for adoption at the September 8, 2020 Town Council meeting.

### **FISCAL IMPACT**

None.

### **ATTACHMENTS**

Ordinance No. 533

**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 8th day of September, 2020.

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Honorable Scott Nassif, Mayor

ATTEST:

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Ms. La Vonda M. Pearson, Town Clerk

Approved as to form:

Approved as to content:

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Mr. Thomas Rice, Town Attorney

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Mr. Douglas B. Robertson, Town Manager