



Planning Commission Agenda Report

DATE: October 7, 2020 **Item No. 7**

CASE NUMBER: Development Code Amendment No. 2020-009

APPLICANT: Town of Apple Valley

PROPOSAL: An amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code modifying Chapter 9.77 "Wireless Telecommunication Facilities" as it relates to general requirements, setback and separation distance reductions, and expanding on locations where towers can be placed with approval of a Conditional Use Permit.

LOCATION: Town wide

ENVIRONMENTAL DETERMINATION: 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, where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

CASE PLANNER: Daniel Alcayaga, AICP, Planning Manager

RECOMMENDATION: Adopt Planning Commission Resolution No. 2020-007

BACKGROUND

On July 14, 2020, the Town Council initiated a Development Code Amendment to modify the Wireless Telecommunication Facilities regulations to provide more options for the placement of wireless telecommunication towers. The initiation occurred during a discussion of an appeal of a Planning Commission denial of a 75-foot tall wireless telecommunication tower stealth as mono eucalyptus to the rear of a Fire Station at 19235 Yucca Loma Road. The Council agreed that the site was too small and too close to residential to accommodate two towers and questioned if surrounding commercial and church sites could support new towers if the code were amended to provide data/wireless carriers more options. The Council upheld the Commission's denial but acknowledged tower's critical role in transmitting emergency calls by the public and a need to accommodate more facilities given the public's growing demand for cell phone usage.

Development standards: All new wireless telecommunication towers in the Town of Apple Valley require approval of a Conditional Use Permit (CUP) to be approved by the Planning Commission. Towers are incentivized to be placed within preferred locations by granting a 50% reduction to setback and separation distance standards, listed below, and allowed to go up to 75 feet in height. The maximum height for non-preferred locations is 50 feet. Preferred locations are generally considered parks, schools, golf courses, public facilities, and certain church and commercial/industrial developments. Wireless telecommunication towers can also locate within the commercial, office, industrial, and open space districts, but are not offered code deficiency allowances. All towers are expressly prohibited in all residential zones. All towers must be stealth or camouflaged. Towers placed within non-preferred locations are subject to the following standards:

- **Setbacks:** Towers must be setback a distance equal to at least 75% of the height of the tower from any adjoining lot line
- **Height allowance:** 50 feet
- **Distance from residential uses/zones:** Towers must have a 1,000-foot separation from any residentially developed property or district, including multi-family developments
- **Distance between other towers:**
 - Monopoles 50 feet in height or less must be at least 750 feet away from another monopole
 - Monopoles 50 feet in height or greater must be 1,500 feet away from another monopole

Towers placed within preferred locations qualify for a height increase of 75 feet, and a 50% reduction in these setback and distance separation standards.

ANALYSIS

To provide data/wireless carriers more options, it is recommended that the acreage requirements for church and commercial developments, which are considered preferred locations, be decreased. The acreage requirements for any church as the sole occupant of a site to be considered a preferred location would be reduced from at least three (3) acres in size to at least one (1) acre in size. The acreage requirements for any commercially designated property to be considered a preferred location would be reduced from at least five (5) acres in size to at least one (1) acre in size. Additionally, the square footage requirement for a commercially designated property of at least one acre in size to be considered a preferred location would be reduced from at least 30,000 square feet of developed structures on site to at least 10,000 square feet of developed structures on site.

To provide cell phone carriers more options, the reductions to setback and distance separation standards are proposed to be increased from 50% to 70% for preferred locations. This has the potential to have a tower located as close as 300 feet from a residential property. Most commercial and church developments of one acre in size cannot support a tower unless the separation distances are also reduced. Wireless telecommunication towers would continue to be prohibited within residential zones and residentially developed properties.

Attached to this staff report are two maps – 1) map of existing preferred locations and 2) map of proposed modifications to preferred locations. The second map, proposed modifications to preferred locations, show circles representing areas where new properties are located that will be considered preferred locations by this code amendment.

Amend Section 9.77.180 as follows:

9.77.180 Preferred Locations

The Town of Apple Valley hereby establishes “Preferred Locations” for the placement of telecommunications facilities. These locations are shown upon Figure 9.77.180 “Preferred Locations” below. Additional preferred locations may be established by the Commission from time to time as needed by the community at the time of submittal of a Conditional Use Permit request for properties if such property conforms to the following:

- any public park;
- any private park, open to the public;
- any public school;
- any private school as the sole occupant of a site at least five (5) acres in size;
- any church as the sole occupant of a site at least ~~three (3)~~ **one** acres in size;
- any commercially designated property of at least ~~five (5)~~ **one** acres in size with a minimum of ~~30,000~~ **10,000** square feet of developed structures on site;
- any developed industrially zoned property;
- any public or private golf courses;
- any existing public facilities such as a water tank, police or fire stations.

Telecommunications facilities placed upon or within such preferred locations shall be located in a manner so that the main structure on site is located between the facility and the main public right-of-way serving the site.

The development standards and criteria for siting Telecommunication facilities on or within a Preferred Location as defined within this Chapter 9.77 “Wireless Telecommunications Towers and Antennas” for setback and separation distances may be reduced by ~~fifty~~ **seventy** percent (~~50%~~**70%**). This reduction may not be combined with the reductions allowed in Section 9.77.190 below for multiple users (co-location) on the same pole or within the same structure.

FINDINGS

An amendment to the Development Code requires that the Planning Commission address two (2) required “Findings”, as listed within Development Code Section 9.06.060. For Commission consideration, the required Findings are listed below, along with a comment addressing each. If the Commission concurs with these comments, they may be adopted and forwarded to the Council for its consideration of the Development Code Amendment. If the Commission wishes modifications to the offered comments, after considering input and public testimony at the public hearing, modifications to the Findings and Code Amendment recommendations can be included into the information forwarded to the Council for consideration.

- 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. Many of these stated Goals and Objectives address the community’s desire to establish and maintain high standards for the quality, aesthetic appearance and safety for all new and existing development. The proposed Development Code Amendment establishes new standards and criteria specifically addressing wireless telecommunication facilities within the Town relative to expansions and collocation facilities. This change is consistent with the Goals and Objectives of the adopted 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 Development Code Amendment will allow for the expansion of existing wireless telecommunication facilities within the Town of Apple Valley. These standards are proposed with the specific intent of allowing expansions or collocation facilities and will not be detrimental to the health, safety or general welfare of the citizens or visitors of the Town of Apple Valley.

NOTICING

Development Code Amendment No. 2020-009 was advertised as a public hearing in the Apple Valley News newspaper on September 25, 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, where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

RECOMMENDATION

Following receipt of public input and discussion by the Commission, it is recommended that the Commission move to approve Planning Commission Resolution No. 2020-007 forwarding a recommendation that the Town Council amend Title 9 “Development Code” of the Town of Apple Valley Municipal Code as outlined within the staff report.

Attachment:

Draft Planning Commission Resolution No. 2020-007

1. Map of Existing Preferred Locations
2. Map of Proposed Modifications to Proposed Locations

PLANNING COMMISSION RESOLUTION NO. 2020-007

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL ADOPT DEVELOPMENT CODE AMENDMENT NO. 2020-009 AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY MODIFYING CHAPTER 9.77 “WIRELESS TELECOMMUNICATION FACILITIES” AS IT RELATES TO GENERAL REQUIREMENTS, SETBACK AND SEPARATION DISTANCE REDUCTIONS, AND EXPANDING ON LOCATIONS WHERE TOWERS CAN BE PLACED WITH APPROVAL OF A CONDITIONAL USE PERMIT.

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 July 14, 2020, the Town Council initiated a Development Code Amendment, directing staff to modify Chapter 9.77 “Wireless Telecommunication Facilities” to expand on locations from where wireless telecommunication towers can be permitted with a Conditional Use Permit given that towers play a critical role in transmitting emergency calls by the public and the public’s growing demand for cell phone usage.

WHEREAS, on September 25, 2020, Development Code Amendment No. 2020-009 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, 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; and

WHEREAS, on October 7, 2020 the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised the public hearing on Development Code Amendment No. 2020-009 receiving testimony from the public; and

WHEREAS, Development Code Amendment No. 2020-009 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, 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. 2020-009 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan and Title 9 “Development Code” of the Municipal Code 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. Amend Section 9.77.180, Preferred Locations, of the Town of Apple Valley Development Code to read as follows:

The Town of Apple Valley hereby establishes “Preferred Locations” for the placement of telecommunications facilities. These locations are shown upon Figure 9.77.180 “Preferred Locations” below. Additional preferred locations may be established by the Commission from time to time as needed by the community at the time of submittal of a Conditional Use Permit request for properties if such property conforms to the following:

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- any public school;
- any private school as the sole occupant of a site at least five (5) acres in size;
- any church as the sole occupant of a site at least ~~three (3)~~ **one** acres in size;
- any commercially designated property of at least ~~five (5)~~ **one** acres in size with a minimum of ~~30,000~~ **10,000** square feet of developed structures on site;
- any developed industrially zoned property;
- any public or private golf courses;
- any existing public facilities such as a water tank, police or fire stations.

Telecommunications facilities placed upon or within such preferred locations shall be located in a manner so that the main structure on site is located between the facility and the main public right-of-way serving the site.

The development standards and criteria for siting Telecommunication facilities on or within a Preferred Location as defined within this Chapter 9.77 “Wireless Telecommunications Towers and Antennas” for setback and separation distances may

be reduced by fifty ~~seventy~~ percent (~~50%~~**70%**). This reduction may not be combined with the reductions allowed in Section 9.77.190 below for multiple users (co-location) on the same pole or within the same structure.

Approved and Adopted by the Planning Commission of the Town of Apple Valley this 7th day of October 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 7th day of October 2020, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Ms. Maribel Hernandez, Planning Commission Secretary