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**TOWN OF APPLE VALLEY  
PLANNING COMMISSION AGENDA**

**WEDNESDAY, OCTOBER 21, 2020**

**Regular Meeting 6:00 p.m.**

***Town Council Chambers***  
**14955 Dale Evans Parkway**

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**PLANNING COMMISSION MEMBERS**

Bruce Kallen, Chairman  
Joel Harrison, Vice-Chairman  
B.R. "Bob" Tinsley, Commissioner  
Mike Arias Jr., Commissioner  
Jared Lanyon, Commissioner

**PLANNING DIVISION OFFICE: (760) 240-7000 Ext. 7200**  
**[www.AVPlanning.org](http://www.AVPlanning.org)**

***Monday - Thursday 7:30 a.m. to 5:30 p.m.***  
***Alternating Fridays 7:30 a.m. to 4:30 p.m.***



**TOWN OF APPLE VALLEY  
PLANNING COMMISSION AGENDA  
REGULAR MEETING  
WEDNESDAY OCTOBER 21, 2020 – 6:00 P.M.**

**IMPORTANT COVID-19 NOTICE**

IN AN EFFORT TO PROTECT PUBLIC HEALTH AND PREVENT THE SPREAD OF COVID-19 (CORONAVIRUS) AND TO ENABLE APPROPRIATE SOCIAL DISTANCING, THE PLANNING COMMISSION MEETING WILL NOT BE OPEN TO PUBLIC ATTENDANCE.

THE TOWN OF APPLE VALLEY ENCOURAGES THE PUBLIC TO VIEW THIS PLANNING COMMISSION MEETING ON TELEVISION OR ONLINE. THE MEETING IS BROADCAST LIVE ON FRONTIER CHANNEL 29 OR CHARTER SPECTRUM CHANNEL 186 AND LIVE STREAMED ONLINE AT [APPLEVALLEY.ORG](http://APPLEVALLEY.ORG)

MEMBERS OF THE PUBLIC WHO WISH TO COMMENT ON MATTERS BEFORE THE PLANNING COMMISSION MAY PARTICIPATE IN THE FOLLOWING WAYS:

(1) COMMENTS AND CONTACT INFORMATION CAN BE EMAILED TO [PUBLICCOMMENT@APPLEVALLEY.ORG](mailto:PUBLICCOMMENT@APPLEVALLEY.ORG) BY 3:00 P.M. THE DAY OF THE SCHEDULED MEETING TO BE INCLUDED IN THE WRITTEN RECORD;

(2) A REQUEST TO SPEAK CAN BE EMAILED TO [PUBLICCOMMENT@APPLEVALLEY.ORG](mailto:PUBLICCOMMENT@APPLEVALLEY.ORG) AND AT THE TIME OF THE REQUESTED AGENDA ITEM, THE PLANNING COMMISSION SECRETARY WILL PLACE A PHONE CALL TO THE COMMENTER AND ALLOW THEM TO SPEAK TO THE COMMISSION VIA SPEAKER PHONE DURING THE LIVE MEETING FOR UP TO THREE MINUTES. PLEASE INDICATE ON WHICH ITEM YOU WISH TO SPEAK.

Materials related to an item on this agenda, submitted to the Commission after distribution of the agenda packet, are available for public inspection in the Town Clerk's Office at 14955 Dale Evans Parkway, Apple Valley, CA during normal business hours. Such documents are also available on the Town of Apple Valley website at [www.applevalley.org](http://www.applevalley.org) subject to staff's ability to post the documents before the meeting.

*The Town of Apple Valley recognizes its obligation to provide equal access to those individuals with disabilities. Please contact the Town Clerk's Office, at (760) 240-7000, two working days prior to the scheduled meeting for any requests for reasonable accommodations.*

## REGULAR MEETING

The Regular meeting is open to the public and will begin at 6:00 p.m.

## CALL TO ORDER

## ROLL CALL

Chairman Kallen \_\_\_\_\_; Vice-Chairman Harrison \_\_\_\_\_  
Commissioners: Tinsley \_\_\_\_\_; Arias \_\_\_\_\_; Lanyon \_\_\_\_\_

## PLEDGE OF ALLEGIANCE

## PUBLIC COMMENTS

Anyone wishing to address an item not on the agenda, or an item that is not scheduled for a public hearing at this meeting, may do so at this time. California State Law does not allow the Commission to act on items not on the agenda, except in very limited circumstances. Your concerns may be referred to staff or placed on a future agenda.

## APPROVAL OF MINUTES

1. Minutes for the Regular Meeting of October 7, 2020.

## PUBLIC HEARING ITEMS

2. **Development Permit No. 2020-007 and Variance No. 2020-001.** *(Continued from October 7, 2020).* A request for approval of a Development Permit to allow the construction of an 11,914 square foot, fourteen (14)-unit apartment complex. The Variance is a request to reduce the required parking spaces from forty-nine (49) to forty-two (42) spaces. Also requested is a reduction to the side yard setback from fifteen (15) feet as required by Ranchos Residential Overlay District, to 13.5 feet. The subject site is 0.84 acres in size and located within the Multi-Family Residential (R-M) zoning designation.

**APPLICANT:** Mr. Robert McGowan representing Mr. Craig Carl

**LOCATION:** 17850 Quantico Lane; APN 0473-153-19

### ENVIRONMENTAL

**DETERMINATION:** Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), the project is Exempt from further environmental review. The proposal is considered an in-fill development meeting the conditions set forth within Section 15332, Class 32 Categorical Exemption.

**CASE PLANNER:** Pam Cupp, Senior Planner

**RECOMMENDATION:** Denial of Variance and approval of Development Permit subject to Conditions.

3. **Development Code Amendment No. 2020-010.** An amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code to add regulations relating to nuisance lighting and glare between residential properties. This amendment will also consider removal of all references relating to the "Dark Sky Policy".

**APPLICANT:** Town of Apple Valley

**LOCATION:** Residential Uses and Zoning 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, 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.

**CASE PLANNER:** Pam Cupp, Senior Planner

**RECOMMENDATION:** Adopt Planning Commission Resolution No. 2020-008

**OTHER BUSINESS**

**PLANNING COMMISSION COMMENTS**

**STAFF COMMENTS**

**ADJOURNMENT**

The Planning Commission will adjourn to the regular Planning Commission Meeting on November 4, 2020.

## MINUTES

### TOWN OF APPLE VALLEY PLANNING COMMISSION REGULAR MEETING OCTOBER 7, 2020

#### CALL TO ORDER

Chairman Kallen called to order the regular meeting of the Town of Apple Valley Planning Commission at 6:02 p.m.

#### Roll Call

Present: Chairman Kallen, Vice-Chairman Harrison, Commissioner Arias,  
Commissioner Tinsley, Commissioner Lanyon,  
Absent: None

#### Staff Present

Lori Lamson, Assistant Town Manager, Daniel Alcayaga, Planning Manager, Richard Pederson, Deputy Town Engineer, Pam Cupp, Senior Planner, Albert Maldonado, Town Attorney, Maribel Hernandez, Planning Commission Secretary.

#### PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Vice-Chairman Harrison

#### APPROVAL OF MINUTES

1. Minutes for the Regular Meeting of September 2, 2020.

#### MOTION

Motion by Commissioner Tinsley seconded Chairman Kallen to approve the minutes of September 2, 2020.

#### ROLL CALL VOTE

Yes: Chairman Kallen  
Vice-Chairman Harrison  
Commissioner Tinsley  
Commissioner Arias  
Commissioner Lanyon  
Noes: None  
Abstain: None  
Absent: None

The motion carried by a 5-0-0-0 vote.

## **PUBLIC COMMENTS**

None

## **PUBLIC HEARINGS**

- 2. Conditional Use Permit No. 2020-003.** A request for approval of a Conditional Use Permit to allow the operation of an equipment storage yard. The proposed storage yard will include four (4) parcels totaling 3.77 acres in size and contains a 5,797 square foot, two (2)-story commercial structure. The project is within the Service Commercial (C-S) zoning designation.

Chairman Kallen opens the public hearing at 6:08pm.

Ms. Maribel Hernandez attempted to contact the applicant to participate by phone; however, they were not available.

Ms. Pam Cupp, Senior Planner, presented the staff report as filed with the Planning Division.

Commissioner Lanyon asked if the block wall listed on the conditions of approval would be for the area between the neighboring areas.

Vice-Chairman Harrison asked, if the applicant was provided the conditions of approval.

Ms. Cupp said she did not receive comments back from the applicant but, they were provided the conditions of approval. And since they were not present, they will be required to sign and send in the acknowledgement of conditions of approval, if they do not agree, then they would need to appeal decision to the Town Council.

Chairman Kallen closed the public hearing at 6:18pm.

Vice-Chairman Harrison said he drove by the location and is glad to see something going in and operational.

Commissioner Lanyon asked if the location will be connecting to the sewer system.

Ms. Cupp said the location is currently on septic, and once the septic fails, they will be required to connect to sewer.

## **MOTION**

Motion by Commissioner Arias seconded Commissioner Tinsley to approve Conditional Use Permit No. 2020-003.

### **ROLL CALL VOTE**

Yes: Chairman Kallen  
Vice-Chairman Harrison  
Commissioner Tinsley  
Commissioner Arias  
Commissioner Lanyon

Noes: None

Abstain: None

Absent: None

The motion carried by a 5-0-0-0 vote.

- 3. Development Permit No. 2020-004 and Deviation Permit No. 2020-004.** A request for approval of a Development Permit to allow the construction of a three (3)-unit apartment building. The Deviation is a request for a reduction to the front yard setback from fifty (50) feet, as required by the Ranchos Residential Overlay District, to forty (40) feet, which the Development Code allows as the minimum front setback for this site. The subject site is 0.40 acres in size and is located within the Multi-Family Residential (R-M) zoning designation.

Chairman Kallen opens the public hearing at 6:18pm.

Joe Mazariegos, applicant was available by phone.

Ms. Pam Cupp, Senior Planner, presented the staff report as filed with the Planning Division.

Chairman Kallen asked if the lot on the other side of the vacant lot had street improvements.

Ms. Cupp said there is a single-family residence to the east that did not have street improvements, and the multi-family project across the street did not have any street improvements.

Chairman Kallen asked how close any street improvements were.

Richard Pederson said the closest area with street improvements that the Town constructed is at Rancherias and Thunderbird.

Chairman Kallen asked if they did street improvement would it be a detriment to drainage down the road.

Mr. Pederson said it would not and that curb and gutter is a drainage facility so that when it leaves the property in goes to the flowline and the area is flat and does not see this causing damage to neighboring properties.

Mr. Mazariegos would like to remove condition EC3 since Zuni Rd has no street improvements on either side of the road and the nearest street improvements are located miles away and any street improvements will be done by the Town.

Being that there was no request to speak on this item, Chairman Kallen closed the public hearing at 6:30p.m.

Commissioner Arias does not feel the applicant should be required to do street improvements, when no other development on Zuni has been done.

Vice Chairman Harrison asked if there's been other project like the one being presented in the same area approved with no street improvements.

Ms. Cupp said there has been no other projects approved in the area and all other existing development has been there for several year predating incorporation.

Discussion ensued regarding the need for street improvements and assessment districts.

Commissioner Tinsley asked if paving the shoulder would be an acceptable compromise.

Mr. Pederson thinks that would be reasonable compromise, and since the area is flat that drainage would not be an issue.

Mr. Pederson made an amendment to condition Zuni Road to be constructed to the Town's Modified Half-Width Rural Road Standards without curbs and gutters. The parkway/sidewalk area shall also be paved or constructed with concrete along the frontage of the property.

Chairman Kallen asked the applicant if he agreed with the amended conditions of approval.

Mr. Mazariegos agreed with the amended conditions of approval.

**MOTION**

Motion by Commissioner Tinsley seconded Vice-Chairman Harrison to approve Development Permit No. 2020-004 and Deviation Permit No. 2020-004 as amended.

**ROLL CALL VOTE**

Yes: Chairman Kallen  
Vice-Chairman Harrison  
Commissioner Tinsley  
Commissioner Arias  
Commissioner Lanyon  
Noes: None



Abstain: None

Absent: None

The motion carried by a 5-0-0-0 vote.

**4. Development Permit No. 2020-007 and Variance No. 2020-001.** A request for approval of a Development Permit to allow the construction of an 11,914 square foot, fourteen (14)-unit apartment complex. The Variance is a request to reduce the required parking spaces from forty-nine (49) to forty-two (42) spaces. Also requested is a reduction to the side yard setback from fifteen (15) feet as required by Ranchos Residential Overlay District, to 13.5 feet. The subject site is 0.84 acres in size and located within the Multi-Family Residential (R-M) zoning designation.

Staff is requesting a continuance to the meeting of October 21, 2020.

Being that there is no one requesting to speak on this item, Chairman Kallen requested for a motion to continue Development Permit No. 2020-007 and Variance No. 2020-001 to the October 21, 2020.

#### **MOTION**

Motion by Vice-Chairman Harrison, second Chairman Kallen to continue Development Permit No. 2020-007 and Variance No. 2020-001 to the October 21, 2020 meeting.

#### **ROLL CALL VOTE**

Yes: Chairman Kallen  
Vice-Chairman Harrison  
Commissioner Tinsley  
Commissioner Arias  
Commissioner Lanyon

Noes: None

Abstain: None

Absent: None

The motion carried by a 5-0-0-0 vote.

**5. Development Code Amendment No. 2020-001** (*Continued from September 2, 2020*). An amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code modifying Chapter 9.72 "Off-Street Parking and Loading Regulations" relating to minimum parking space requirements, revisions necessary to provide implementation clarification and consistency with associated Development Code sections, and general clean-up which may include corrections to, or removal of, certain tables, diagrams or figures.

Chairman Kallen opens the public hearing at 6:50pm.

Ms. Pam Cupp, Senior Planner, presented the staff report as filed with the Planning. Division.

Commissioner Lanyon asked about charging stations being required with the current changes and with the current Pandemic, more businesses are allocating parking spaces for curbside pickup and drop off.

Ms. Cupp said those would be calculated into the parking calculation and then it would be up to the business itself on how they want to allocate spaces.

Chairman Kallen asked about the increase in pick-up and delivery options and would there be spaces set aside for that service.

Ms. Cupp said there is nothing in the code that states they need to have a designated pickup spot and it would be up to the business itself to designate a pick-up location. One new item that has been added to the code is Outdoor Dining. This will allow the Director the opportunity to reduce parking accordingly as long as it does not cause a detrimental shortage to parking.

Vice-Chairman Harrison asked about the green curbs at some business locations that allow for a 10-minute parking and asked if that was something the businesses do on their own.

Ms. Cupp said that is something the individual locations do on their own.

Being that there is no one requesting to speak on this item, Chairman Kallen closed the Public Hearing at 7:01pm.

### **MOTION**

Motion by Commissioner Arias, second Vice-Chairman Harrison to approve Planning Commission Resolution 2020-001.

### **ROLL CALL VOTE**

Yes: Chairman Kallen  
Vice-Chairman Harrison  
Commissioner Tinsley  
Commissioner Arias  
Commissioner Lanyon

Noes: None

Abstain: None

Absent: None

The motion carried by a 5-0-0-0 vote.

- 6. Development Code Amendment No. 2020-008** An amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code modifying provisions related to large and small recycling collection facilities.

Chairman Kallen opens the public hearing at 7:05pm.

Ms. Pam Cupp, Senior Planner, presented the staff report as filed with the Planning Division.

Vice-Chairman Harrison asked if the Host Business involved with the application process and how are they notified of the responsibility.

Ms. Cupp said the Host Business is part of the application process.

Chairman Kallen asked if there are any existing recycling locations that do not have the proper State Certification.

Ms. Cupp said the Town is unaware, since this was something not previously required.

Being that there is no one requesting to speak on this item, Chairman Kallen closed the Public Hearing at 7:18pm.

### **MOTION**

Motion by Commissioner Arias, second Commissioner Tinsley to approve Planning Commission Resolution 2020-006.

### **ROLL CALL VOTE**

Yes: Chairman Kallen  
Vice-Chairman Harrison  
Commissioner Tinsley  
Commissioner Arias  
Commissioner Lanyon

Noes: None

Abstain: None

Absent: None

The motion carried by a 5-0-0-0 vote.

- 7. Development Code Amendment No. 2020-009.** 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.

Chairman Kallen opens the public hearing at 7:20pm.

Daniel Alcayaga, Planning Manager, presented the staff report as filed with the Planning Division and discussed some revision made the staff report as follows:

The first paragraph on page 7-2, under analysis, has been substantially revised to better describe the proposed Amendments.

The first line of second paragraph on page 7-2, under analysis, has been revised to state "... **the reduction** to setback and distance separation standards are proposed to be increased from 50% to ~~30%~~ **70%** for preferred locations." The percentage was also changed at the bottom of Page 7-3 (Staff report) and the top of Page 7-8 (Resolution).

Commissioner Tinsley asked if staff received any input from potential applicants or users.

Mr. Alcayaga said he spoke to Crown Castle, the applicant that just had a project denied and said they started looking into other nearby areas for a new tower.

Commissioner Tinsley asked how 5G would affect this aspect in communications.

Ms. Lori Lamson said 5G runs on a different system and they are require to be placed lower, more sporadically and closer together. Majority of these are placed on street signs, as well as light and utility poles, but do not replace the need for cell towers.

Commissioner Lanyon asked why there were no cell towers north of Waalew Rd. with commercial growing in that area.

Ms. Lamson said the need for a tower is mainly based on the population of the area and as the area is developed in the future, we will then see a need for additional towers in North Apple Valley area.

Commissioner Tinsley asked why cell towers were not placed on surrounding mountains.

Ms. Lamson said that was mainly due to the difficulty for maintenance equipment being able to access them.

Vice-Chairman asked if this changes the ability of the Planning Commission to deny a tower based on aesthetics or reverse any projects previously denied.

Mr. Alcayaga said this would not reverse any projects previously denied and this amendment does not change the process.

Vice-Chairman asked how staff will enforce the maintenance of the towers when they start not looking like their original appearance.

Mr. Alcayaga said the applicant will be contacted and if they do not respond, then it would be a Code Enforcement issue.

Being that there is no one requesting to speak on this item, Chairman Kallen closed the Public Hearing at 7:45pm.

**MOTION**

Motion by Vice-Chairman Harrison second Commissioner Arias to approve Planning Commission Resolution 2020-009.

**ROLL CALL VOTE**

Yes: Chairman Kallen  
Vice-Chairman Harrison  
Commissioner Tinsley  
Commissioner Arias  
Commissioner Lanyon

Noes: None

Abstain: None

Absent: None

The motion carried by a 5-0-0-0 vote.

**OTHER BUSINESS**

None

**PLANNING COMMISSION COMMENTS**

Vice-Chairman Harrison welcomed Commissioner Lanyon.

Chairman Kallen informed Vice-Chairman Harrison that he was nominated for the Multi-Family AD HOC committee.

**STAFF COMMENTS**

Mr. Alcayaga mentioned the upcoming Multi-Family AD HOC committee that will occur on October 8, 2020 and the department has started working with a consultant on updating the Housing Element and Climate Action Plan.

**ADJOURNMENT**

Motion by Commissioner Tinsley, Second by Vice-Chairman Harrison, and unanimously carried, to adjourn the meeting at 7:51p.m. to the Regular Meeting on October 21, 2020.

Respectfully Submitted by:

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Maribel Hernandez  
Planning Commission Secretary

Approved by:

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Chairman, Bruce Kallen



## Planning Commission Agenda Report

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### Item No. 2

- DATE:** October 21, 2020 (*Continued from October 7, 2020*)
- CASE NUMBER:** Development Permit No. 2020-0007 and Variance No. 2020-001
- APPLICANT:** Mr. Robert McGowan representing Mr. Craig Carl
- PROPOSAL:** A request for approval of a Development Permit to allow the construction of an 11,914 square foot, fourteen (14)-unit apartment complex. The Variance is a request to reduce the required parking spaces from forty-nine (49) to forty-two (42) spaces. Also requested is a ten (10) percent reduction to the side yard setback. The subject site is 0.84 acres in size and located within the Multi-Family Residential (R-M) zoning designation.
- LOCATION:** 17850 Quantico Lane; APN 0473-153-19
- ENVIRONMENTAL DETERMINATION:** Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), the project is Exempt from further environmental review. The proposal is considered an in-fill development meeting the conditions set forth within Section 15332, Class 32 Categorical Exemption.
- CASE PLANNER:** Pam Cupp, Senior Planner
- RECOMMENDATION:** Denial of Variance and approval of Development Permit subject to Conditions.
- 

### PROJECT SITE AND DESCRIPTION

- A. Project Size:  
The subject site is 0.84 acres (36,734 sq ft) in size.
- B. General Plan Designations:  
Project Site - Medium Density Residential (R-M)  
North - Medium Density Residential (R-M)

- South - Medium Density Residential (R-M)
- East - Medium Density Residential (R-M)
- West - Medium Density Residential (R-M)

C. Surrounding Zoning and Land Use:

- Project Site- Multi-family Residential (R-M), Vacant
- North - Multi-family Residential (R-M), Vacant
- South - Multi-family Residential (R-M), 10-unit apartment complex
- East - Multi-family Residential (R-M), 10-unit apartment complex
- West - Multi-family Residential (R-M), 10-unit apartment complex

D. Site Characteristics:

The subject site is a contains desert vegetation including one (1) young Joshua tree. The property contains a downward slope of approximately ten (10) percent within the rear half of the site.

E. Density Analysis:

Maximum Units Permitted	16 Units
Units Proposed	14 Units

F. Unit Analysis:

<b>Bedrooms</b>	<b>Bathrooms</b>	<b>Required Sq Ft</b>	<b>Proposed Sq Ft</b>
3	2.5	1,200	1,282

G. Building Height:

Maximum Permitted	35 Feet
Proposed Maximum	22 Feet, 8 inches

H. Building Setback Analysis:

	<b>Required</b>	<b>Proposed</b>
Front	50 ft. (RRO)	50 ft.
North Side	15 ft. (RRO)	13.5 ft.*
South Side	15 ft. (RRO)	13.5 ft.*
Rear	15 ft. (RRO)	32 ft.

I. Landscaping and Common Open Space:

Required Minimum	15% (5,510 sq ft)
Proposed	19% (6,968 sq ft)

J. Parking Analysis:

Total Parking Required: 2-car enclosed per unit, plus 1.5 uncovered space per unit  
 Total Parking Provided: 2-car enclosed per unit, plus 1 uncovered space per unit.\*



K. <u>Lot Coverage:</u>	
Required Maximum	60% (22,040 sq ft)
Proposed	36% (13,300 sq ft)

\* Indicates Variance requested

ANALYSIS

A. General:

The applicant is requesting approval of a Development Permit to construct a fourteen (14)-unit apartment complex. The applicant is also requesting the Commission’s approval of a Variance to allow a reduction of seven (7) parking spaces and to allow a ten (10) percent encroachment into the fifteen (15)-foot side yard setbacks required by the Ranchos Residential Overlay District (RRO).

B. Site Analysis:

The project site is a 0.84-acre parcel located within the Multi-family Residential (R-M) zoning designation. There are existing, ten (10)-unit apartment projects located to the east, west and south and a vacant parcel to north. The site has native vegetation and at least one (1) small Joshua tree located towards the front of the lot. The site contains a slope effecting the rear portion of the lot. Based upon the grading plan, the slope appears to be roughly ten (10) percent.

The project consists of two (2), seven (7)-unit apartment buildings and proposes a minimum front setback of fifty (50) feet, a minimum rear setback of thirty-two (32) feet and side yard setbacks of thirteen (13) feet, six (6) inches. The project is located within the Residential Ranchos Overlay District which requires a minimum side yard setback of fifteen (15) feet. Through the Deviation Permit process an applicant can request a ten (10) percent reduction for interior side setbacks within residential districts.

The project consists of fourteen (14), three (3) bedroom units. The Development Code requires two (2) enclosed spaces per unit and 1.5 uncovered spaces per unit, which for this project requires a total of forty-nine (49) parking spaces. The applicant has provided each unit with a two (2)-car enclosed garage and one (1) guest space per unit for a total of forty-two (42) parking spaces. There are two (2) ADA accessible parking spaces and three (3) compact parking spaces located within the front setback. The remaining nine (9) parking spaces are standard size and located to the rear of the project site. The applicant is requesting the Planning Commission’s approval of a Variance to allow the proposed parking reduction.

There is a slope effecting the rear one-half of the property. Based upon the precise grading plan provided, a retaining wall in excess of eight (8) feet in height is proposed toward the rear of the lot. The Development Code permits a maximum

height of eight (8) feet for any retaining wall within a residential district, this would include any required safety railing. Staff is recommending Condition P19 requiring the maximum height for any retaining wall not exceed eight (8) feet. The precise grading plan provide further indicates that the exercise amenity will be located within one of the two, proposed infiltration pond. What is not evident, is the slope of these infiltration ponds. Staff is recommending Condition P21 requiring compliance with Development Code Section 9.29.070(B)(6) which states that useable open space areas shall not include rights-of-way, vehicle parking areas, private open space areas, or areas with slopes exceeding fifteen (15) percent. Staff is also including Condition P20 which clarifies Development Code Section 9.28.100 "Drainage Facilities and Storm Water Runoff" which states that the maximum slope within any retention/detention basins shall be 4:1.

Access to the site is provided with a twenty-eight (28) foot wide driveway. There is a fifteen (15)-foot landscape buffer along the project's frontage, consistent with the Code requirement. The project includes a pedestrian pathway system throughout the development with a minimum width of four (4) feet as required by the Development Code. A fourteen (14)-unit project requires a minimum of two (2) amenities occupying a minimum of 2,800 square feet (200 square feet per unit). The amenities proposed include a barbeque with a picnic table and an exercise area consisting of outdoor fitness equipment. Both amenities will be located to the rear of the project site.

The Development Code requires that ground floor units be provided with a private (walled) patio, or courtyard with a minimum area of 150 square feet. The applicant has indicated that each unit will be provided approximately 160 square feet of outdoor space enclosed with a three (3)-foot high, courtyard type wall. The Commission should consider whether or not the courtyard provided meets the intent of private outdoor space.

The Code requires a ten (10)-foot wide, densely planted landscape buffer along the entire project perimeter. Each unit is provided a small garden area with its courtyard; however, approximately 47% of each side property line is without perimeter landscaping. The pedestrian pathways are at the property lines leaving no space for a landscape planter. The Commission should if the perimeter landscaping provide meets the intent of the Code for a landscape buffer. Staff is recommending Condition P12 requiring a six (6)-foot tall, decorative, perimeter block wall, not to exceed four (4) feet in height within the front yard setback.

1. Traffic and Circulation

Access to the site is from Quantico Lane. The Town Engineer is requiring five (5) feet of road dedication and half-width street improvement, including curb, gutter and sidewalk. The submitted site plan includes the required street improvements.

2. Drainage

Prior to issuance of a grading permit, a final drainage plan with street layouts shall be submitted for review and approval by the Town Engineer showing provisions for receiving and conducting offsite and onsite tributary drainage flows around or through the site in a manner which will not adversely affect adjacent or downstream properties. This plan shall consider reducing the post-development site-developed flow to 90 percent of the pre-development flow for a 100-year design storm.

3. Sewer Connection

Connection to the Town's sewer system will is required.

C. Floor Plan Analysis:

Each unit will have an attached, two (2)-car garage that includes a storage area and laundry hook-ups. The first floor includes the living room, kitchen and a powder room. The second floor contains three (3) bedrooms and two (2) full bathrooms. The front door access is along the side property lines by way of a pedestrian pathway through a private 160 square foot courtyard. The entryways and patios will not be covered.

D. Architecture Analysis:

The project contains two (2) structures each containing seven (7) units. The structures are each two (2) stories with a maximum height of twenty-two (22) feet, eight (8) inches. Exterior materials include concrete tile roofing, stucco walls and stacked stone. The street facing elevation provided illustrates a stacked stone wainscot and window shutters providing visual interest. Staff is recommending Condition P17 requiring variation to the roof line and wall plan along the street facing elevation. The garages face the center of the development. The Development Code requires a two (2)-foot wall plane variation between units. The proposed design provides a two (2)-foot wide pilaster pop-out on either side of the garage doors on every other unit. The second floor of each unit, above the garage, also contains a two (2)-foot wall plane and roof line variation between each unit. The side elevation, which provide access through the primary entry, exhibits second floor variation to the wall plane and roof lines with no variation for the first floor. The rear elevation facing the amenities contains no architectural detail. Staff is recommending Condition P16 requiring architectural enhancements to the rear elevation which could include a stacked stone wainscot and a pop-out band separating the first and second floor.

E. Variance Analysis

The applicant is requesting a Variance to allow a parking reduction and reduction to the side yard setbacks. A Variance may only be granted when, because of special circumstances applicable to the property in question, including size, shape, topography, location or surroundings, the strict application of the Development Code deprives such property of privileges enjoyed by other property in the vicinity and under an identical zoning classification.

The applicant is seeking relief from the fifteen (15)-foot side yard setback required by the Ranchos Residential Overlay district. The applicant is proposing a side yard setback of thirteen (13) feet, six (6) inches, which is a ten (10) percent encroachment. The properties to the east and west have setbacks less than those proposed by the applicant. The Development Code allows a ten (10) percent reduction to the side yard setbacks with a Deviation Permit approved by the Director. The Deviation Permit does not require unique circumstances applicable to the subject site. Therefore, staff is recommending Condition P6 requiring the approval of a Deviation Permit prior to issuance of a building permit.

The applicant is seeking relief from the parking requirements with a request to allow two (2) enclosed spaces and one (1) uncovered space per unit. This is a reduction of seven (7) parking spaces. Staff believes there are alternative means with which to comply with the Code. The proposal can be revised to be all two (2)-bedroom units. Alternatively, reducing the project to twelve (12) units which would negate the need for a Variance. The existing parking requirements will be under consideration by the Planning Commission and Town Council early next year; however, it is the applicant's desire to move forward with the proposal as presented.

The burden of proof to establish the evidence in support of the Findings is the responsibility of the applicant. The applicant has provided Variance Findings for the Commission consideration, which are attached to this report. The proposed lot is not substandard in size, nor does it contain any development constraints. Although there is a fairly significant slope in the rear, the use of retaining walls can mitigate this constraint.

The applicant has not demonstrated that, based upon size, shape, topography, location or surrounding, the strict application of the Development Code would cause a deprivation that is otherwise enjoyed by other properties within the vicinity under an identical zoning classification. Therefore, staff is recommending the request denial of request for reduced parking and is recommending Condition of Approval P8 requiring compliance with the minimum parking standards, which could include a reduction to twelve (12) units or reduction to two (2) bedroom units. If the Planning Commission constructs the positive Findings necessary to approve the parking reduction, modification of Condition P8 would be appropriate.

F. Environmental Assessment:  
Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), the project is Exempt from further environmental review. The proposal is considered an in-fill development meeting the conditions set forth within Section 15332, Class 32 Categorical Exemption.

G. Noticing:  
This item was advertised as a COVID-19 compliant public hearing in the Apple Valley News newspaper and mailed to all property owners within a 300-foot radius of the project site on September 25, 2020.

H. Development Permit Findings:

As required under Section 9.17.080 of the Development Code, prior to approval of a Development Permit, the review authority must make the following Findings:

1. That the location, size, design, density and intensity of the proposed development is consistent with the General Plan, the purpose of this Code, the purpose of the zoning district in which the site is located, and the development policies and standards of the Town;

Comment: The proposed fourteen (14)-unit development is located within the Residential Multi-family (R-M) zoning designation and in compliance with the General Plan Land Use and Zoning District that allows new construction of multi-family subject with the approval of a Development Permit that are consistent with all Development Code requirements. The proposal does not meet the required parking spaces; therefore, is not consistent with all Development Code requirements. Reducing the number of units, or modification to two (2) bedroom units, would allow the project to be in compliance with Development Code standards.

2. That the location, size and design of the proposed structures and improvements are compatible with the site's natural landforms, surrounding sites, structures and streetscapes and does not unnecessarily block public views from other buildings or from public ways, or visually dominate its surroundings;

Comment: The proposed building height of 22-feet, 8-inches will not create an imposing appearance. Many of the existing complexes in the area are of similar height and therefore will appear in scale to other residential developments in the area.

3. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures and that quality in architectural design is maintained in order to enhance the visual environment of the Town;

Comment: The design, materials and details of the proposed multi-family residential development will complement the structures within the immediate area and any future development.

4. That the amount, location, and design of open space and landscaping conforms to the requirements of this Code, enhances the visual appeal and is compatible with the design and function of the structure(s), site and surrounding area;

Comment: The amount, location, and design of common open space and landscaping proposed conforms to the requirements of the Code.

- 5. That excessive and unsightly grading of hillsides does not occur, and the character of natural landforms such as knolls and the Mojave River and that existing vegetation and Joshua Trees are adequately protected and preserved where feasible as required by this Code;

Comment: The site is not located on a hillside and is void of natural landforms; however, there is a fairly significant slope down towards the rear of the site that can be mitigated with the use of retaining walls. There is one (1) Joshua tree on the site, which can be relocated to a permanent landscaped area.

- 6. That the proposed development's generation of traffic will not adversely impact the capacity and physical character of surrounding streets and that traffic improvements and or mitigation measures are provided in a manner consistent with the Circulation Element of the Town General Plan;

Comment: The building fronts on Quantico Lane, which is a public street designed to accommodate all traffic generated by the building. The project will include half-width street improvements including curb, gutter and sidewalk. Traffic generated from the project will not adversely impact the surrounding area.

- 7. That there will be no negative impacts upon the environment from the proposed structure(s) that cannot be mitigated; and

Comment: Under the State Guidelines to Implement the California Environmental Quality Act (CEQA), the project is not anticipated to have any direct or indirect impact upon the environment as it has been determined that the proposed request is Exempt from further environmental review.

- 8. That the proposed development, and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety and welfare of the community or be materially injurious to properties or improvements in the vicinity nor be contrary to the adopted General Plan.

Comments: The proposal is for a fourteen (14)-unit multi-family project within an area zoned appropriately for the use. The location and scale of the proposal will blend with other similar projects and structures within the vicinity. The project does not meet the required number of parking spaces, which be detrimental to the

public health, safety and welfare by causing an unnecessary need for parking along the public street. Additional onsite parking would ensure that the project does not become detrimental to the community or be materially injurious to properties or improvements in the vicinity nor be contrary to the adopted General Plan. Reducing the number of units or modifying the project to two (2) bedroom units, would allow the project to be in compliance with Development Code standards.

I. Variance Permit Findings:

In considering any Variance, the Commission is required by the Development Code to make specific Findings. The following are the Findings required to grant a Variance, as required under Section 9.24.070 of the Development Code, and a comment to address each:

1. That because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of this Code deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

Comment: The property is a rectangular shaped lot similar to the other properties in the area. The site exceeds the minimum lot width by 40% and the lot depth by 60%. There is a slope in the rear of the property which will be mitigated with retaining walls. Reduction of the project to an all two (2) bedroom floor plan or to a twelve (12) unit project would bring the project into compliance with Development Code standards. Approving a Variance would appear as granting special privilege and may set a precedent allowing others to apply with similar requests for a parking reduction. A ten (10) percent reduction to the side yard setback to 13.5 feet can be reviewed through the Deviation Permit process.

2. That granting the Variance will be consistent with the general intent and purpose of the Development Code provisions for the district in which the property is located.

Comment: Development Code Table 9.9.72.020-A requires 3.5 parking spaces for each three (3) bedroom multi-family attached unit. Granting the Variance will not be consistent with the general intent and purpose of the Development Code. Development Code Table 9.28.040-A allows a ten (10)-foot minimum side yard setback within the R-M zone; therefore, allowing a reduction to the side yard setback to 13.5 feet would be consistent with the general intent and purpose of the Development Code.

- 3. That granting the Variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same vicinity and zoning district and denied to the property for which the Variance is sought;

Comment: A reduction to the side yard setback to 13.5 feet would not be considered special privilege since surrounding projects enjoy a similar reduced setback. The surrounding properties are similar in size and contain ten (10)-unit projects, not the fourteen (14)-units proposed by the applicant. The applicant has not demonstrated that surrounding properties enjoy a similar reduction to parking spaces based upon number of bedrooms.

- 4. That granting the Variance will not be materially detrimental to the public health, safety or welfare, or injurious to the property or improvements in such vicinity and land use district in which the property is located;

Comment: Granting the requested Variance may set a precedent that other property owners with generally similar circumstances could cite to justify their own requests for a Variance. The cumulative impact of additional Variance requests and approvals would nullify the intent and meaning of the current Development Code and may have a negative impact upon the adjoining properties.

- 5. That granting of the Variance does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and in the zoning district and General Plan land use designation such property is located; and

Comment: The surrounding properties are similar in size and contain ten (10)-unit projects, not the fourteen (14)-units proposed by the applicant. The applicant has not demonstrated that surrounding properties enjoy a similar reduction to parking spaces based upon number of bedrooms. Granting the requested Variance for this parcel may set a precedent that other property owners with generally similar circumstances could cite to justify their own requests for variances.

- 6. That granting the Variance does not allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel.

Comment: The proposed Variance is a request for a reduced side yard setback and a reduction to parking spaces. If granted, the



Variance would not allow a use or activity which is not otherwise expressly authorized by the Development Code.

### RECOMMENDATION

Based upon the information contained within this report, and any input received from the public at the hearing, it is recommended that the Planning Commission move to:

1. Determine that the project is not anticipated to have any direct or indirect impact upon the environment, as it has been determined that, in compliance with the California Environmental Quality Act (CEQA), the proposed request is Exempt from further environmental review.
2. Find the facts presented in the staff report do not support the Findings required to grant a Variance and deny Variance 2020-001.
3. Find the facts presented in the staff report support the Findings required to approve Development Permit No 2020-007 subject to the recommended Conditions of Approval.
4. Direct staff to file a Notice of Exemption.

### ATTACHMENTS:

1. Recommended Conditions of Approval
2. Applicant's Variance Statement/Findings
3. Site Plan
4. Elevations
5. Zoning/Location Map

TOWN OF APPLE VALLEY

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**RECOMMENDED CONDITIONS OF APPROVAL**  
**Development Permit No. 2020-007 and Variance No. 2020-001**

**Please note:** *Many of the suggested Conditions of Approval presented herewith are provided for informational purposes and are otherwise required by the Municipal Code. Failure to provide a Condition of Approval herein that reflects a requirement of the Municipal Code does not relieve the applicant and/or property owner from full conformance and adherence to all requirements of the Municipal Code.*

**Planning Division Conditions of Approval**

- P1. This project shall comply with the provisions of State law and the Town of Apple Valley Development Code and the General Plan. This approval, if not exercised, shall expire two (2) years from the date of action of the reviewing authority, unless otherwise extended pursuant to the provisions of application of State law and local ordinance. The extension application must be filed, and the appropriate fees paid, at least sixty (60) days prior to the expiration date. The Development Permit becomes effective ten (10) days from the date of the decision unless an appeal is filed as stated in the Town’s Development Code.
  
- P2. The applicant shall defend at its sole expense (with attorneys approved by the Town), hold harmless and indemnify the Town, its agents, officers and employees, against any action brought against the Town, its agents, officers or employees concerning the approval of this project or the implementation or performance thereof, and from any judgment, court costs and attorney's fees which the Town, its agents, officers or employees may be required to pay as a result of such action. The Town may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve the applicant of this obligation under this condition.
  
- P3. It is the sole responsibility of the applicant on any Permit, or other appropriate discretionary review application for any structure to submit plans, specifications and/or illustrations with the application that will fully and accurately represent and portray the structures, facilities and appurtenances thereto that are to be installed or erected if approved by the Director. Any such plans, specifications and/or illustrations that are reviewed and approved by the Director shall accurately reflect the structures, facilities and appurtenances expected and required to be installed at the approved location without substantive deviations, modifications, alterations, adjustments or revisions of any nature.
  
- P4. No deviation, modification, alteration, adjustment or revision to or from the appearance, location, fixtures, features or appurtenances thereto of any type or extent shall be approved without said changes being first submitted to the Planning Division for consideration and approval.

- P5. The filing of a Notice of Exemption requires the County Clerk to collect a fee of \$50.00. The fee must be paid in a timely manner in accordance with Town procedures. The check shall be made payable to the Clerk of the Board of Supervisors, 385 North Arrowhead, 2nd Floor, San Bernardino, CA 92415 and delivered to the Town for processing.
- P6. Prior to issuance of a building permit the applicant obtain the approval of a Deviation Permit allowing a ten (10) percent reduction to the side yard setbacks.
- P7. All lighting shall be hooded and directed downward as to not shine towards adjacent properties and public streets. Maximum light standard height shall not exceed 20 feet.
- P8. Parking requirements shall be met and be in compliance with Town standards. Resulting modification to the floor plan or site plan to meet parking requirements shall be subject to the approval of the Planning Division.
- P9. All parking stalls shall be clearly striped and permanently maintained with double or hairpin lines.
- P10. All required and installed landscaping shall incorporate and maintain a functioning automatic sprinkler system, and said landscaping shall be maintained in a neat, orderly, disease and weed free manner at all times.
- P11. Final landscape and irrigation plans shall be submitted prior to the issuance of Building permits and installed prior to issuance of occupancy permits subject to approval by the Planning Division.
- P12. A six (6)-foot tall decorative block wall shall be constructed along the project perimeter outside of the front yard setback. Maximum wall height within the front setback is four (4) feet.
- P13. All fencing and screening material shall be in conformance with the Development Code subject to approval by the Planning Division.
- P14. All outdoor mechanical and electrical equipment, whether rooftop, side of structure, or on the ground, shall be screen from view from the public street by architectural elements designed to be an integral part of the building.
- P15. Trash Enclosure shall be covered and constructed in accordance with Town Standards and is recommended to reflect the architectural design of approved project subject to the review and approval of the Planning Division.
- P16. The rear elevation shall include architectural enhancements which may include a stacked stone wainscot and a pop-out band separating the first and second floors.

- P17. The street facing elevation shall incorporate roof line and wall plan variation, subject to the review and approval of the Planning Division.
- P18. The stacked stone wainscot shall wrap a minimum of three (3) feet on all corners.
- P19. The maximum height for any retaining wall, including safety rail, shall be eight (8) feet as measured from the lowest point of grade.
- P20. The maximum slope within any retention area shall be twenty-five (25) percent (4:1).
- P21. Common open space and/or amenities shall not be within any area exceeding a slope of fifteen (15) percent.

### **Environmental and Regulatory Compliance Conditions of Approval**

- EC1. The project must provide adequate areas for collecting and loading recyclable materials in compliance with Assembly Bills 341 and 1826. The trash enclosure must comply with the newly adopted recycling standards as set forth in Public Resources Code § 42910-42912 and Town of Apple Valley Municipal Code (AVMC) § 6.20.023(b).
- EC2. Pursuant to AVMC § 8.19.020(a) et seq., the developer or construction contractor shall complete and submit a Waste Management Plan (WMP), on a WMP form approved by the Town for this purpose as part of the application packet for the building or demolition permit.
- EC3. Pursuant to AVMC § 8.19.050(a) and prior to the issuance of a Certificate of Occupancy, the developer or contractor shall submit documentation proving that the project has met the diversion requirement. The diversion requirement shall be at least fifty (50) percent of the total C&D debris generated by the project via reuse or recycling.
- EC4. As of January 1, 2019, businesses and multi-family residences that generate four (4) cubic yards or more of solid waste per week shall arrange for organic waste recycling services with limited exceptions. Contact Burrtec Waste Industries at (760) 245-8607 for further information.

### **Engineering Division Conditions of Approval**

- EC1. Prior to issuance of a grading permit, a final drainage plan with street layouts shall be submitted for review and approval by the Town Engineer showing provisions for receiving and conducting offsite and onsite tributary drainage flows around or through the site in a manner which will not adversely affect adjacent or downstream properties. This plan shall consider reducing the post-development site-developed flow to 90 percent of the pre-development flow for a 100-year design storm.

- EC2. An encroachment permit shall be obtained from the Town prior to performing any work in any public right of way.
- EC3. Zuni Road shall be constructed to the Town's Half-Width Local Road Standards along the frontage of the property.
- EC4. A 30-foot half-width road dedication along Zuni Road adjacent to the property shall be granted to the Town of Apple Valley.
- EC5. Street improvement plans shall be submitted to the Town Engineer for review and approval.
- EC6. An encroachment permit shall be obtained from the Town prior to performing any work in any public right of way.
- EC7. Final improvement plans and profiles shall indicate the location of any existing utility, which would affect construction and shall provide for its relocation at no cost to the Town.
- EC8. Utility lines shall be placed underground in accordance with the requirements of the Town. (Municipal Code Section 14.28)
- EC9. Traffic impact fees adopted by the Town shall be paid by the developer.
- EC10. Any developer fees adopted by the Town including but not limited to drainage fees shall be paid by the developer.
- EC11. A Storm Water Pollution Prevention Plan (SWPPP) in accordance with the National Pollutant Discharge Elimination System (NPDES) shall be required.

**Public Works Department Conditions of Approval**

- PW1. Sewage disposal shall be by connection to the Town of Apple Valley sewer system. Plans must be approved by the Town of Apple Valley Public Works Department. A six (6) inch sewer lateral is required for multi-family residential.
- PW2. Sewer connection fees required.

**Building and Safety Conditions of Approval**

- BC.1 Grading and drainage plans including a soils report must be submitted to and approved by the Building Department and Engineering Department prior to grading permit issuance.
- BC.2 Submit plans, engineering and obtain permits for all structures, retaining walls, signs

- BC.3 A Notice of Intent (NOI) and a Storm Water Prevention Plan (SWPP) must be submitted to and approved by the Engineering and Building Departments prior to issuance of a grading permit and or any land disturbance.
- BC.4 All utilities shall be placed underground in compliance with Town Ordinance No.89.
- BC.5 Comply with State of California Disability Access requirements
- BC.6 A pre-grading meeting is required prior to beginning any land disturbance. This meeting will include the Building Inspector, General Contractor, Grading Contractor, soils technician and any other parties required to be present during the grading process such as Biologist, Paleontologist.
- BC.7 Dust palliative or hydro seed will be required on those portions of the site graded but not constructed (phased construction)
- BC.8 Page two of the submitted building plans will be the conditions of approval
- BC.9 Construction must comply with 2019 California Building Codes
- BC.10 Best Managements Practices (BMP's) are required for the site during construction
- BC.11 Provide Water Quality Management Plan (WQMP) or Alternative Compliance Plan

**Apple Valley Fire Protection District Conditions of Approval**

- FD1. The above referenced project is protected by the Apple Valley Fire Protection District. Prior to construction occurring on any parcel, the owner shall contact the Fire District for verification of current fire protection development requirements.
- FD2. All new construction shall comply with applicable sections of the California Fire Code, California Building Code, and other statutes, ordinances, rules, and regulations regarding fires and fire prevention adopted by the State, County, or Apple Valley Fire Protection District.
- FD3. All combustible vegetation, such as dead shrubbery and dry grasses, shall be removed from each building site a minimum distance of thirty (30) feet from any combustible building material, including the finished structure. This does not apply to single specimens of trees, ornamental shrubbery, or similar plants, which are used as ground cover if they do not form a means of transmitting fire.  
California Public Resources Code, Sec. 4291
- FD4. Prior to combustible construction, the development and each phase thereof, shall have two points of paved access for fire and other emergency equipment, and for routes of escape which will safely handle evacuations. Each of these points of

access shall provide an independent route into the area in which the development is located.

FD5. Fire lanes shall be provided with a minimum width of twenty-six (26) feet, maintained, and identified. Twenty-six (26) feet access will start at both points of ingress and continue through the site.

FD6. Approved numbers or addresses shall be placed on all existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers shall be internally illuminated by premises wiring. Where building setbacks exceed 75 feet from the roadway, additional contrasting 4-inch numbers shall be displayed at the property entrance.

Apple Valley Fire Protection District, Ordinance 57

FD7. Plans for fire protection systems designed to meet the fire flow requirements specified in the Conditions of Approval for this project shall be submitted to and approved by the Apple Valley Fire Protection District and water purveyor prior to the installation of said systems.

A. Unless otherwise approved by the Fire Chief, on-site fire protection water systems shall be designed to be looped and fed from two (2) remote points.

B. System Standards:

*Fire Flow	1500	GPM @ 20 psi Residual Pressure
Duration	2	Hour(s)
Hydrant Spacing	660	Feet

\*If blank, flow to be determined by calculation when additional construction information is received.

Install per A.V.F.P.D. Standard Series #101

FD8. NFPA 13D (RESIDENTIAL AUTOMATIC FIRE SPRINKLER SYSTEM):  
REQUIRED

This residence shall be constructed with an automatic fire sprinkler system (NFPA 13D) throughout the structure, including garage. Plans shall be submitted by a licensed C-16 contractor to the Fire District for review and approval along with plan review fees. Fire Sprinkler work shall not commence until plan approval and a job card have been issued. An approved fire alarm system shall be installed that will provide a local alarm for water flow to be audible throughout the premises. NOTE: The Fire District shall be notified a minimum of 24 hours prior to the desired final inspection date.

Apple Valley Fire Protection District, Ordinance 57

FD9. A letter shall be furnished to the Fire District from the water purveyor stating that the required fire flow for the project can be met.

*Development Permit No. 2020-007 and Variance No. 2020-001  
October 21, 2020 Planning Commission Meeting*

FD10. Prior to issuance of building permit, the developer shall pay all applicable fees as identified in the Apple Valley Fire Protection District Ordinance.

**END OF CONDITIONS**



**SUPPLEMENTAL VARIANCE STATEMENT**

The applicant must provide detailed answers to the questions listed below. You should include specific evidence, details and/or qualities of the proposed structure or other project. Additional pages or supporting documentation such as photographs, previous variance approval, etc., may be attached.

1. Specific Development Code Section for which relief is being sought:

- ~~VARIANCE ON AMOUNT OF STORAGE~~  
(1) NO OF PARKING REQUIRED 3 WANTED 3 1/2 REQUIRED  
(2) 13.5 SIDE YARD FROM AV. PER 15.0' OVERLAY DISTRICT

2. Explain the hardship or practical difficulty that would result from the strict interpretation and enforcement of this Code.

- (1) RESTRICTIVE TO AMOUNT OF SPACE FOR 14 UNIT APARTMENT COMPLEX.  
(2) GET BACK FOR BEST INTERIOR DISTANCE BETWEEN BUILDINGS

3. What is the alternative means of compliance being proposed?

- (1) MORE PARKING WHICH WOULD REQUIRE WE REMOVE 2 UNITS -  
(2) VERY NARROW UNITS, OR LESS UNITS

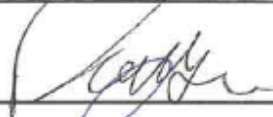
4. What are the special circumstances that apply only to the property to which the application pertains, and do not apply generally to the other properties in the vicinity?

THIS PROPERTY IS IN A CULDESAC STREET AND IS LONG & NARROW, DEVELOPMENT CODE IS 20 PER ACRE. TO MAXIMIZE VALUE WE NEED TO 12 VARIANCES

5. Explain how, if the Variance is approved, it will not constitute a granting of special privilege which will not be available to other properties in the vicinity?

DEVELOPMENT CODE ITSELF ALLOWS FOR 19-22 UNITS PROPERTY SIDE. WE ARE UNDED DENSITY FOR HIGHER QUALITY

Signed



Date

6/15/2020

Print Name

ROBERT F MCGOWAN

**FINDINGS REQUIRED TO GRANT A VARIANCE**

The Town of Apple Valley Community Development Department  
14955 Dale Evans Parkway, Apple Valley, CA 92307 • (760) 240-7000 • Fax: (760) 240-7399

Variance/Deviation (Effective July 1, 2019 - Resolution No. 2019-17)

Page 5 of 9

The applicant must provide specific justification for each of the findings listed below. You should include specific evidence, details and/or qualities of the proposed structure or other project. Additional pages or supporting documentation such as photographs, previous variance approval, etc., may be attached.

1. Special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the Town Development Code deprives such property of privileges enjoyed by other properties in the vicinity and under identical zoning classification.

EARLY SUBDIVISION OF LOTS WERE  
RARELY STUDIED FOR MAX. USE & HIGHED  
DENSITIES.

2. Granting the variance will be consistent with the general intent and purpose of the Development Code provisions for the district in which the property is located.

3 PARKING SPACES PER UNIT IS ON  
THE AGENDA FOR APPROVAL.

3. Granting of the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zoning district and denied to the property for which the Variance is sought.

SUBSTANTIAL MATCHES ALL FOR MOST  
PROPERTIES HISTORICALLY.

4. Granting of the variance will not be materially detrimental to the public health, safety or welfare, or injurious to the property or improvements in such vicinity and land use district in which the property is located.

3 SPACES PER UNIT IS REQUESTED.

3 SPACE PER UNIT IS MORE THAN AVERAGE HISTORICAL

5. Granting of the variance does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and in the zoning district and General Plan land use designation such property is located.

MOST IF NOT ALL EARLY DEVELOPMENT  
FITS THIS SITE LAYOUT

6. Granting of the variance does not allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel.

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No

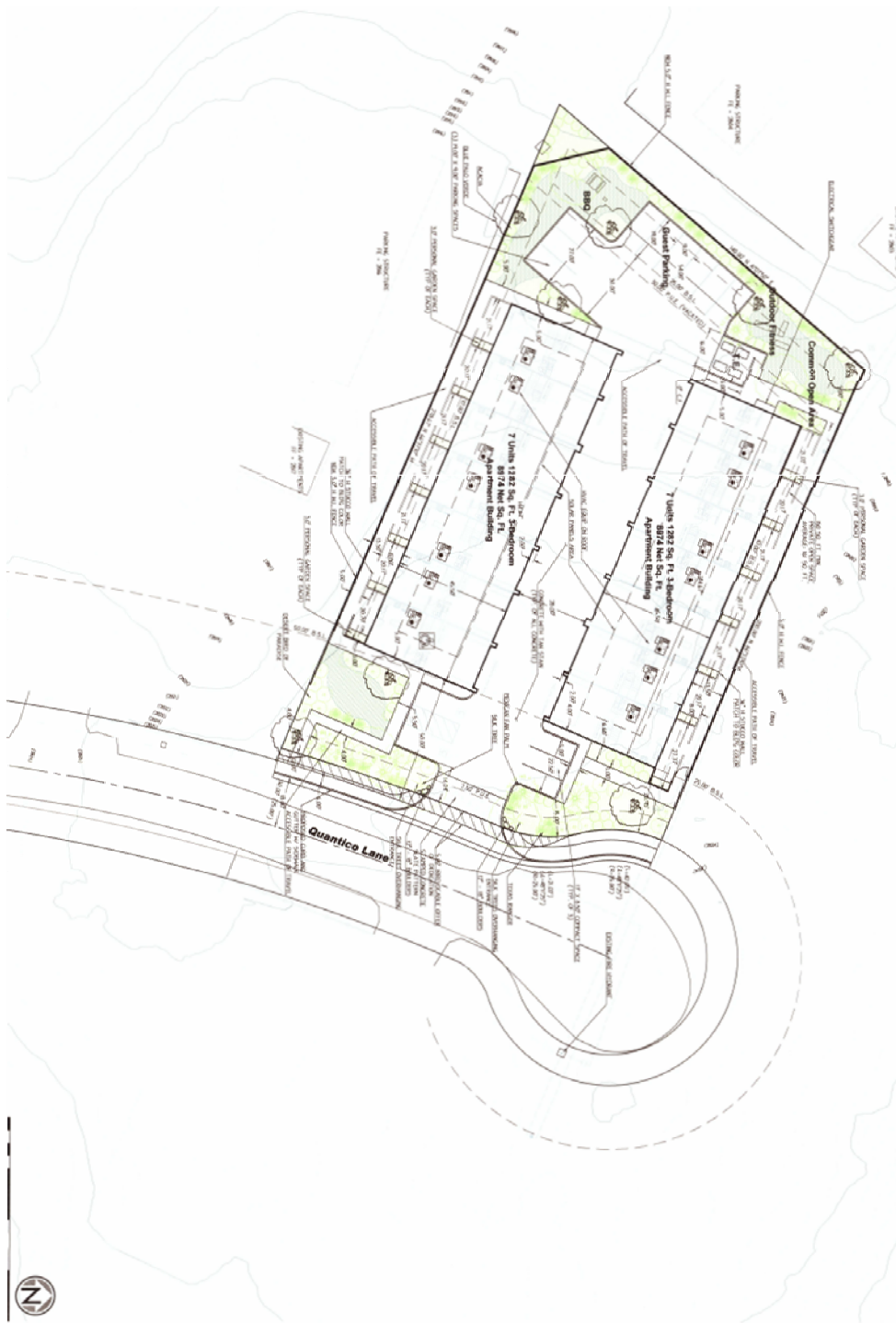
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# Quantico Pines II

## Apple Valley, CA



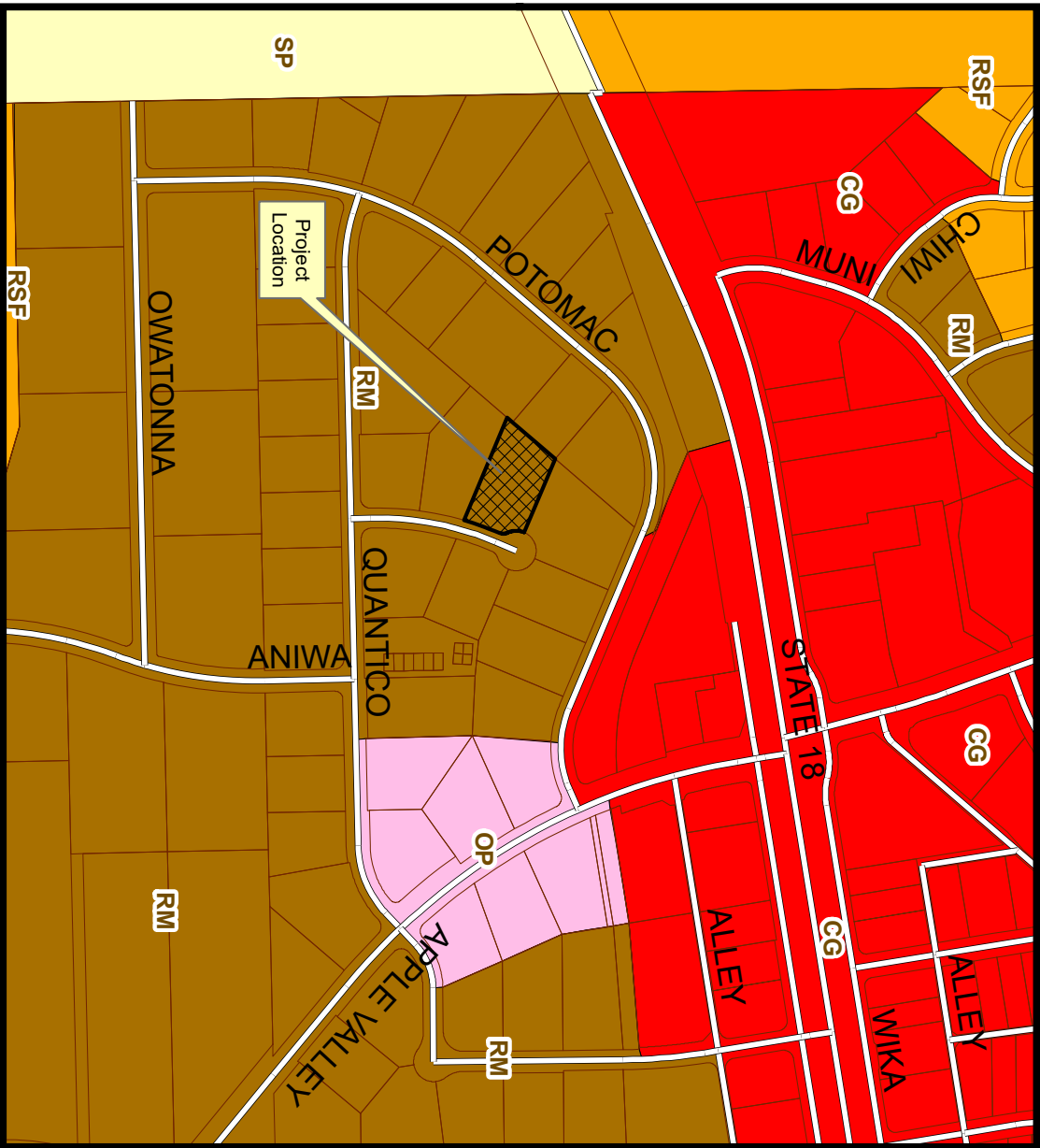
<p><b>Project Description</b></p> <p>IMPROVED 14 UNIT APARTMENT OFFERS 14 UNITS</p>	<p><b>Lot Area Tabulation</b></p> <table border="1"> <thead> <tr> <th>Lot</th> <th>Area (sq. ft.)</th> <th>Area (sq. ft.)</th> <th>Area (sq. ft.)</th> <th>Area (sq. ft.)</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> </tr> <tr> <td>2</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> </tr> <tr> <td>3</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> </tr> <tr> <td>4</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> </tr> <tr> <td>5</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> </tr> <tr> <td>6</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> </tr> <tr> <td>7</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> </tr> <tr> <td>8</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> </tr> <tr> <td>9</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> </tr> <tr> <td>10</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> </tr> <tr> <td>11</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> </tr> <tr> <td>12</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> </tr> <tr> <td>13</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> </tr> <tr> <td>14</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> <td>10,000</td> </tr> </tbody> </table>	Lot	Area (sq. ft.)	Area (sq. ft.)	Area (sq. ft.)	Area (sq. ft.)	1	10,000	10,000	10,000	10,000	2	10,000	10,000	10,000	10,000	3	10,000	10,000	10,000	10,000	4	10,000	10,000	10,000	10,000	5	10,000	10,000	10,000	10,000	6	10,000	10,000	10,000	10,000	7	10,000	10,000	10,000	10,000	8	10,000	10,000	10,000	10,000	9	10,000	10,000	10,000	10,000	10	10,000	10,000	10,000	10,000	11	10,000	10,000	10,000	10,000	12	10,000	10,000	10,000	10,000	13	10,000	10,000	10,000	10,000	14	10,000	10,000	10,000	10,000																																																												
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<p><b>Legal Description</b></p> <p>LOT 41 TRACT NO 4994</p>	<p><b>Utilities</b></p> <p>WATER: METRO WATER SERVICES, 2101 W. 10TH ST., APPLE VALLEY, CA 92408                  SEWER: METRO WATER SERVICES, 2101 W. 10TH ST., APPLE VALLEY, CA 92408                  GAS: SOUTHWEST GAS CORPORATION, 1000 W. 10TH ST., APPLE VALLEY, CA 92408                  ELECTRIC: SOUTHWEST GAS CORPORATION, 1000 W. 10TH ST., APPLE VALLEY, CA 92408                  TELEPHONE: SOUTHWEST GAS CORPORATION, 1000 W. 10TH ST., APPLE VALLEY, CA 92408                  CABLE: SOUTHWEST GAS CORPORATION, 1000 W. 10TH ST., APPLE VALLEY, CA 92408</p>																																																																																																																																							
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- STUCCO COLOR 1 MOROCCAN SAND
- STUCCO COLOR 2 OATMEAL
- ROOFING EAGLE PONDEROSA
- ROCK FACE BLUFFSTONE
- WOOD TRIM BURNT AMBER



# ZONING/LOCATION MAP

Development Permit No. 2020-007 and  
 Variance No. 2020-001



17850 Quantico Lane  
 APN 0473-153-19



Legend	
	Project Location
	R-SF Single-Family Residential (1 to 0.9 net acre)
	R-M Multi-Family Residential (2 to 20 divided lots)
	C-G General Commercial
	O-P Office Professional
	O-AN Office Professional
	SP Special Professional

Date: 10/12/2020



## Planning Commission Agenda Report

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<b>DATE:</b>	October 21, 2020	<b>Item No. 3</b>
<b>CASE NUMBER:</b>	Development Code Amendment No. 2020-010	
<b>APPLICANT:</b>	Town of Apple Valley	
<b>PROPOSAL:</b>	An amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code to add regulations relating to nuisance lighting and glare between residential properties. This amendment will also consider removal of all references relating to the "Dark Sky Policy".	
<b>LOCATION:</b>	Residential Uses and Zoning Town wide	
<b>ENVIRONMENTAL DETERMINATION:</b>	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.	
<b>CASE PLANNER:</b>	Pam Cupp, Senior Planner	
<b>RECOMMENDATION:</b>	Adopt Planning Commission Resolution No. 2020-008	

### **BACKGROUND**

Recently, issues relating to the lack of regulations in the Municipal Code regarding light pollution and nuisance of light glare between residential properties has been brought to the attention of staff and the Town Council. At the August 25, 2020 Town Council meeting, the Council discussed the topic, and subsequently, initiated a Development Code Amendment to add regulations to the Development Code to address the issue of light nuisances applicable to single-family land uses.

**ANALYSIS**

The background and previous discussions regarding light pollution date back to the beginning of the Town’s incorporation. The 1991 General Plan included a provision about protection of the “Dark Sky” by limiting the amount and size of lights poles within commercial, industrial and rights of way within the Town.

In 1993, Ordinance No. 115 established Chapter 8.30 in the Municipal Code creating regulations for outdoor lighting. In 2002 light standards for commercial use was added to the Development Code consistent with this policy. Under Section 9.70 “Performance Standards” for new development, light fixtures in non-single-family residential areas were required to be directed down and limited on the height of the pole. This Section replaced Chapter 8.30 of the Municipal Code that was repealed in 1999.

At the time of the repeal of Chapter 8.30 “Outdoor Lighting”, the General Plan was not modified or updated regarding the provision referring to a “Dark Sky”. Subsequently, in the 2009 General Plan Comprehensive Update, the reference to a “Dark Sky Policy” was removed for consistency with the previous actions of repealing Chapter 8.30. Staff has discovered that there are still sections of the Development Code that refer to a Dark Sky Policy that currently does not exist. The current provisions under the Performance Standards, pertain only to new development and do not address lighting nuisances in existing single-family residential neighborhoods.

Staff reports back in 1999 and 2002 reference that Municipal Code Chapter 6.30 “Nuisance” would allow Code Enforcement the ability to regulate light nuisances between any two property owners. Through legal interpretation and court proceedings, it has been determined that we cannot regulate light nuisances between two properties through the currently language regarding public nuisances.

When it comes to regulations of lighting between single-family residences, there isn’t a provision in the Municipal Code that would allow the Town to enforce this type of nuisance. It leaves the issue between the two property owners to deal with the matter themselves or through a civil legal proceeding. It is staff’s recommendation that regulations for residential lighting be added to Development Code Section 9.70 “Performance Standards”, requiring all residential lighting to be directed down with shields. It is further recommended to clean-up areas of the Development Code to eliminate the discussion of a “Dark Sky Policy” that doesn’t currently exist.

Staff recommendation is to modify Section 9.70.020(H) “Light and Glare” of Chapter 9.70 “Performance Standards” with the addition of Paragraph 7 as follows:

**7. Security or accent lighting for single-family residences shall be shielded to project downward or in a manner that the light is directed away from streets and adjoining properties.**



Staff is further recommending the elimination of any reference to the “Dark Sky Policy” with the following modification to Paragraph (A)(1) of Section 9.47.090(A) “Lighting” of Chapter 9.47 “Industrial Design Standards” as follows:

- 1. Lighting shall be used only for the functional requirements of safety, security, and identification. Unnecessary lighting is prohibited in the interest of energy efficiency and ~~maintenance of the Town's Dark Sky Policy~~ **preservation of the night sky views.**

Section 9.77.110 Paragraph D of Chapter 9.77 “Wireless Telecommunications Towers and Antennas should also be modified as follows to remove reference to the Dark Sky Policy:

- D. **Lighting.** Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding **properties and the night sky views** ~~and must conform to the Town's "Dark Sky" policy.~~

**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. The Land Use Element focuses on the protection and enhancement of existing neighborhoods and establishes goals, policies and programs to assure that development in the future enhances what already exists in Town. The proposed amendment will create regulations relating to nuisance lighting, which will enhance existing and future residential neighborhoods, consistent with the goals and policies of 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 create regulations relating to nuisance lighting, which will enhance existing and future residential neighborhoods. Therefore, the amendment will not be materially detrimental to the public health, safety or welfare of the Town or its residents.

### **NOTICING**

Development Code Amendment No. 2020-0010 was advertised as a public hearing in the Apple Valley News newspaper on October 16, 2020.

### **ENVIRONMENTAL REVIEW**

Development Code Amendment No. 2020-010 will create regulations to control residential nuisance lighting, which will enhance existing and future residential neighborhoods. 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.

### **RECOMMENDATION**

Following receipt of public input and discussion by the Commission, it is recommended that the Commission move to approve Planning Commission Resolution No. 2020-008 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. 2020-008

**PLANNING COMMISSION RESOLUTION NO. 2020-008**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL ADOPT DEVELOPMENT CODE AMENDMENT NO. 2020-010 AMENDING TITLE 9 “DEVELOPMENT CODE” ADDING REGULATIONS TO CONTROL NUISANCE LIGHTING AND GLARE BETWEEN RESIDENTIAL PROPERTIES AND TO REMOVE ALL REFERENCES RELATING TO THE “DARK SKY POLICY”.**

**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 August 25, 2020, the Town Council initiated a Development Code Amendment directing staff to work with the Planning Commission to add regulations to the Development Code that would address the issue of light nuisances within single-family land uses;

**WHEREAS**, Specific changes are proposed to Title 9 “Development Code” of the Town of Apple Valley Municipal Code by amending Chapter 9.70 “Performance Standards” to add regulations to control residential nuisance lighting and remove references to the “Dark Sky Policy” throughout the Code; and

**WHEREAS**, on October 16, 2020, Development Code Amendment No. 2020-010 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. 2020-010 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 October 21, 2020 the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised the public hearing on Development Code Amendment No. 2020-010 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. 2020-010 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.** Add Paragraph 7 to Section 9.70.020(H) “Light and Glare” of Chapter 9.70 “Performance Standards” as follows:

“7. Security or accent lighting for single-family residences shall be shielded to project downward or in a manner that the light is directed away from streets and adjoining properties.”

**Section 4.** Eliminate the reference to the “Dark Sky Policy” with the following modification to Paragraph (A)(1) of Section 9.47.090(A) “Lighting” of Chapter 9.47 “Industrial Design Standards” as follows:

“1. Lighting shall be used only for the functional requirements of safety, security, and identification. Unnecessary lighting is prohibited in the interest of energy efficiency and preservation of the night sky views.”

**Section 5.** Modify Paragraph D of Section 9.77.110 of Chapter 9.77 “Wireless Telecommunications Towers and Antennas” to remove reference to the Dark Sky Policy as follows:

“D. **Lighting.** Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding properties and the night sky views.

Approved and Adopted by the Planning Commission of the Town of Apple Valley this 21st day of October 2020.

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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 21st day of October 2020, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Ms. Maribel Hernandez, Planning Commission Secretary