



Town Council Agenda Report

Date: November 10, 2020 Item No. 9

To: Honorable Mayor and Town Council

Subject: 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

From: Douglas Robertson, Town Manager

Submitted by: Daniel Alcayaga, AICP, Planning Manager

Budgeted Item: Yes No N/A

RECOMMENDED ACTION:

- A. **Determine** that, Pursuant to Section 21080.17 of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it has been 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. **Find** the facts presented within the staff report support the required Findings for approval of the proposed Development Code Amendment and adopt the Findings.
- C. **Move** to waive the reading of Ordinance No. 540 in its entirety and read by title only.
- D. **Introduce** Ordinance No. 540 approving Development Code Amendment No. 2020-009; and
- E. **Direct** staff to file a Notice of Exemption with the San Bernardino County Clerk of the Board.

SUMMARY:

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.

On October 7, 2020, the Planning Commission reviewed the modifications proposed under Development Code Amendment No. 2020-009. Upon presentation of the staff report and subsequent Commission discussion, Planning Commission Resolution No. 2020-007 was unanimously approved recommending the Town Council modify the Development Code.

BACKGROUND:

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 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 a 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, the Planning Commission recommends 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.

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 distance is reduced to 300 feet from residential. 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.

GIS ArcView, a mapping software, was used to analyze and determine the acreage recommended to be considered a preferred location for church and commercial properties and the separation distance standard. First, the software was used to create a map identifying all existing preferred locations within the Town (Attachment 1). Second, the acreages for developed commercial and church properties were lowered to observe at what point properties would begin to populate on the map. Properties between one and five acres yielded little to no new preferred locations. It is not until the acreage is reduced to one acre that additional properties begin to populate on the map (Attachment 2). Most properties that populated in this analysis were found to have a depth of around 400 feet; located along the most common commercial corridors within the Town; and adjacent to residential. Therefore, a separation distance of 300 feet from residential properties would allow new towers on the properties that populated from the above steps. Any distance

greater than 300 feet would place a tower closer to the street or disqualify the property all together from qualifying for a new tower.

Some of the properties that would qualify as preferred locations under the proposed Amendments, include two existing churches along Apple Valley Road, south of Yucca Loma Road, as well as two commercial properties at the intersection of Apple Valley Road and Yucca Loma Road. The Town Council was open to the possibility of locating a new tower at one of these locations.

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.

NOTICING

Development Code Amendment No. 2020-009 was advertised as a COVID-19 compliant public hearing in the Apple Valley News newspaper on October 30, 2020.

FINDINGS

An amendment to the Development Code requires that the Planning Commission and Town Council address two (2) required “Findings”, as listed within Development Code Section 9.06.060. For Council consideration, the Planning Commission recommends adoption of the required Findings as listed below, along with a comment addressing each.

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.

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.

Fiscal Impact:

Not Applicable

Attachments:

Ordinance No. 540

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

ORDINANCE NO. 540

AN ORDINANCE OF THE TOWN OF APPLE VALLEY, CALIFORNIA, ADOPTING 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, 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, 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, specific changes are proposed to 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; and

WHEREAS, it has been 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 adopted Planning Commission Resolution No. 2020-007; and

WHEREAS, Development Code Amendment No. 2020-009 is consistent with 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, on October 30, 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, on November 4, 2020 the Town Council 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

NOW, THEREFORE, BE IT RESOLVED that in consideration of the evidence presented at the public hearing, and for the reasons discussed by the Town Council at said hearing, the Town Council of the Town of Apple Valley, California, does hereby resolve, order and determine as follows, 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 will not be detrimental to the public health, safety or welfare of the Town or its residents.

Section 2. Pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be determined that the Code amendment is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty, as with the proposed Code Amendment, that there is no possibility that the proposal approved under Development Code Amendment No. 2020-001 will have a significant effect on the environment and, therefore, the Amendment is exempt from further environmental review.

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:

- 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 one acre in size;
- any commercially designated property of at least one acre in size with a minimum of 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 seventy percent (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.

NOW, THEREFORE, the Town Council of the Town of Apple Valley, State of California, does ordain as follows:

Section 4. Notice of Adoption. The Town Clerk of the Town of Apple Valley shall certify to the adoption of this ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the Town in a manner permitted under Section 36933 of the Government Code of the State of California.

Section 5. Effective Date. This Ordinance shall become effective thirty (30) days after the date of its adoption.

Section 6. Severability. If any provision of this Ordinance, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications and, to this end, the provisions of this Ordinance are declared to be severable.

Approved and Adopted by the Town Council and signed by the Mayor and attested to by the Town Clerk this 8th day of December 2020.

Honorable Scott Nassif, Mayor

ATTEST:

Ms. La Vonda M. Pearson, Town Clerk

Approved as to form:

Approved as to content:

Mr. Thomas Rice, Town Attorney

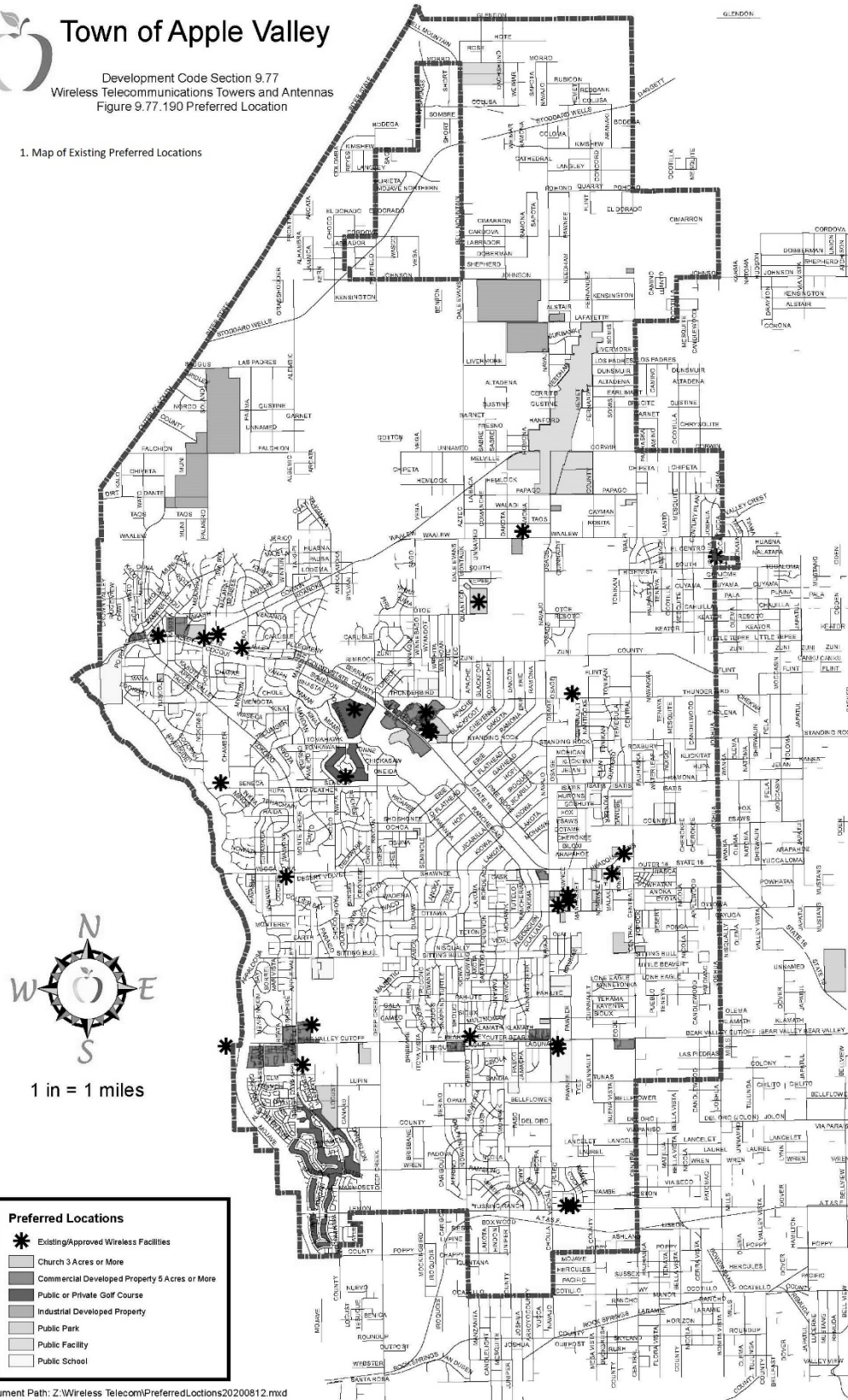
Mr. Douglas B. Robertson, Town Manager



Town of Apple Valley

Development Code Section 9.77
Wireless Telecommunications Towers and Antennas
Figure 9.77.190 Preferred Location

1. Map of Existing Preferred Locations





Town of Apple Valley

Development Code Section 9.77
Wireless Telecommunications Towers and Antennas
Proposed Modifications to
Figure 9.77.190 Preferred Location

2. Map of Proposed Modifications to Preferred Locations

