



Town Council Agenda Report

Date: January 26, 2021 Item No. 7

To: Honorable Mayor and Town Council

Subject: REQUEST TO VACATE A PORTION OF OUTER HIGHWAY 18 SOUTH ADJACENT TO LOTS 20 AND 21 OF TRACT MAP NO. 4492

From: Douglas Robertson, Town Manager

Submitted by: Brad Miller, Town Engineer
Engineering Department

Budgeted Item: Yes No N/A

RECOMMENDED ACTION

- A. Find that a 16-foot wide portion of the street easement of Outer Highway 18 South, located adjacent to Lots 20 and 21 as shown on Tract Map 4492, has been superseded by relocation, and is in excess of right-of-way not required for street purposes; and the proposed vacation is exempt from CEQA;
- B. Adopt Resolution No. 2021-03 "A Resolution of the Town Council of the Town of Apple Valley, California, vacating a portion of street easement at Lots 20 and 21 of Tract Map 4492, pursuant to the Streets and Highway Code Section 8333-8334.5";
- C. Instruct the Town Clerk to cause the Resolution vacating a portion of the street easement to be recorded in the office of the County Recorder of the County of San Bernardino pursuant to Section 8336 of the Streets and Highways Code.

BACKGROUND

After a portion of Outer Highway 18 South was vacated last July, at the southwest corner of Outer Highway 18 South and Kasota Road, adjacent to the Nico Plaza project, the property owners of the adjacent lots to the west requested that their 16' wide portion of the outer highway be vacated so their parking lot could be expanded. The street right-of-way vacation is located adjacent to the north frontage of lots 20 and 21 of Tract 4492 as shown on the Exhibit "B" attached to the Resolution. As a condition of the vacation, staff is recommending and the applicant has agreed to landscape the strip of land being vacated to match what was landscaped by the adjacent Nico Plaza project. This condition is included in the Resolution.

A portion of the street easement may be summarily vacated under the provisions of Section 8333(c) of the Streets and Highway Code because the following conditions apply to this request:

“(c) The easement has been superseded by relocation, or determined to be excess by the easement holder, and there are no other public facilities located within the easement.

Because Outer Highway 18 South has been removed as a result of the Nico Plaza project and a new connector street has been constructed south of the intersection of Outer Highway 18 south and Tuscola Road, there is no current or prospective use of this 16-foot wide section of street easement. No posting, advertising or public hearing is necessary.

Once the Council adopts the resolution vacating the easement, the Town Clerk will record the resolution of vacation. After the resolution is recorded, the vacation is complete.

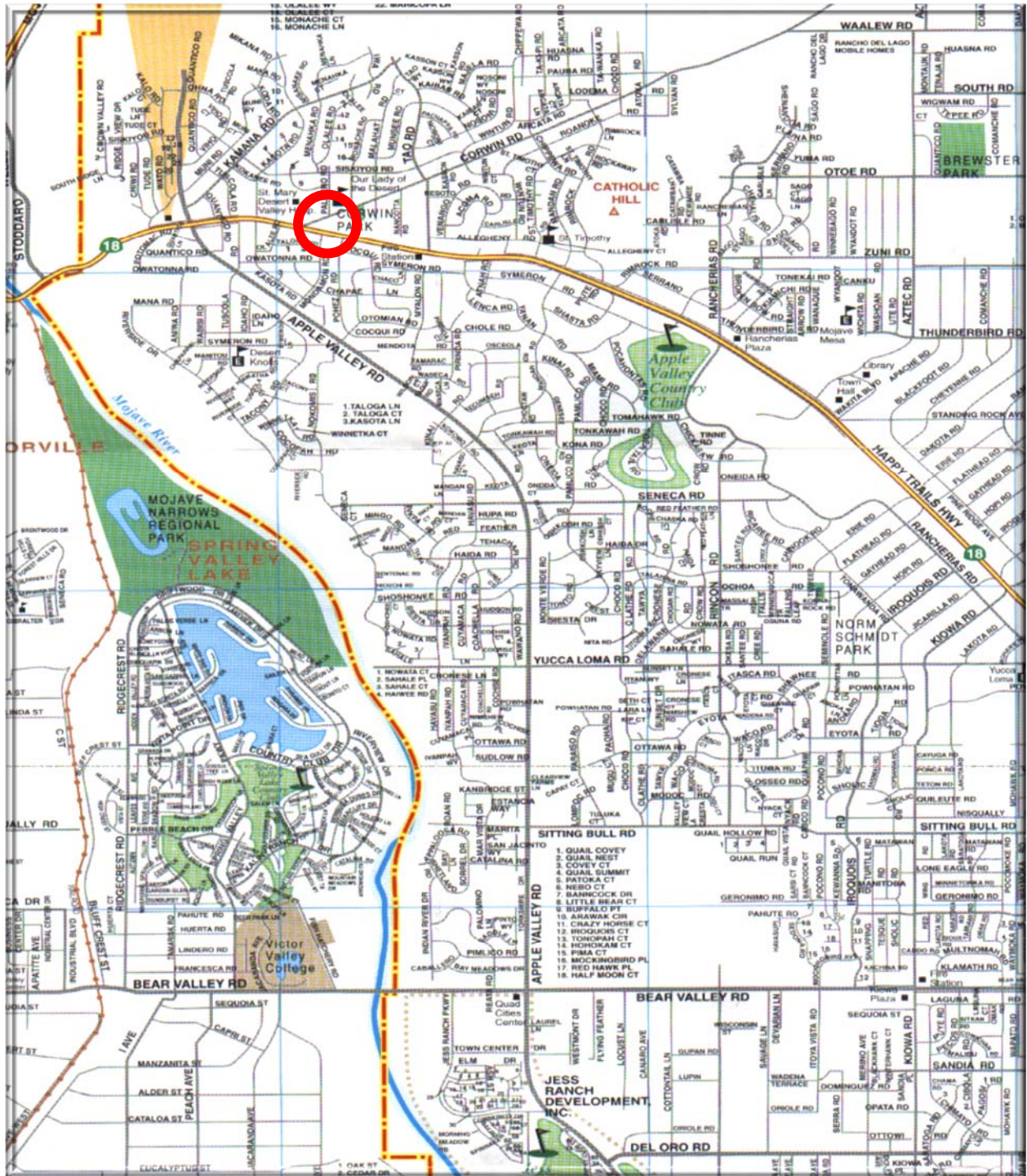
FISCAL IMPACT

The applicant has paid the required fees for processing this vacation. There is no financial impact to the Town.

ATTACHMENTS

- A. Location Map
- B. Resolution vacating a portion of the street easement.
- C. Letter to Applicant
- D. Resolution No. 2020-48 regarding Landscaping and Maintenance of vacated outer highways

LOCATION MAP



RESOLUTION NO. 2021-03

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, VACATING A PORTION OF THE STREET EASEMENT AT LOTS 18 AND 19 OF TRACT MAP 4492, PURSUANT TO THE STREETS AND HIGHWAY CODE SECTION 8333-8334.5

THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

Section 1: the Town Council of the Town of Apple Valley, California, intends to vacate a 16-foot wide portion of a street easement lying adjacent to the north boundary of Lots 20 and 21 of Tract Map No. 4492, as recorded in Book 55 of Maps, pages 71 through 75, Official Records, in the Town of Apple Valley, San Bernardino County, State of California; and

Section 2: the Town Council of the Town of Apple Valley now finds that it is now in the public interest that a portion of said easement be vacated, and the easement for Outer Highway 18 South has been superseded by relocation, it hereby meets the requirements of section 8333(c), of the Streets and Highways Code;

Section 3: That pursuant to the Public Streets, Highways and Service Easements Vacation Law, Division 9, Part 3 Chapter 4, (Summary Vacation), California Streets and Highways Code beginning at section 8300, relating to the vacation of public streets, highways, and service easements, the following described easement for street purposes is hereby vacated:

For legal description see the Exhibits "A" and "B" both attached hereto and by this reference made a part hereof.

Reserving and excepting from said abandonment the easement and right at any time, or from time to time, to construct, maintain, operate, replace, remove, and renew sanitary sewers and storm drains and appurtenant structures, in upon, over and across any highway or part thereof proposed to be abandoned and pursuant to any existing franchise or renewals thereof, or otherwise, to construct, maintain, operate, replace, remove, renew, and enlarge lines of pipe, conduits, cables, wires, poles and other convenient structures, equipment and fixtures for the operation of gas pipe lines, telephone lines, and for the transportation or distribution of electric energy, petroleum and its products, ammonia, water, and for incidental purposes, including access to protect the purposes, including access to protect the property from all hazards in, upon and over the thoroughfare or part thereof proposed to be abandoned.

Affects Assessor's Parcel: 473-112-21

Section 4: The property owner shall landscape and maintain the vacated area as approved by the Town's Planning Manager.

Section 5: The Town Clerk shall record this Resolution of vacation pursuant to Streets and Highways Code section 8336.

Section 6: That from and after the date this Resolution is recorded, said portion of the highway easement shall no longer constitute an easement for drainage purposes over that portion hereinabove described.

Section 7: If any section, subsection, sentence, clause or phrase of this resolution is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, the Town shall be deemed to have adopted this resolution without such section.

APPROVED and ADOPTED this 26th day of January 2021.

MAYOR

ATTEST:

TOWN CLERK

EXHIBIT "A"
(ROAD VACATION)

ALL THAT PORTION OF STATE HIGHWAY ROUTE 18 ADJACENT TO LOTS 20 AND 21 OF TRACT 4492 AS RECORDED IN MAP BOOK 55, PAGES 71 THROUGH 75 IN THE TOWN OF APPLE VALLEY, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 20, SAID POINT LYING ON THE SOUTHERLY LINE OF STATE HIGHWAY ROUTE 18 (100' HALF WIDTH) AND BEING A CURVE CONCAVE TO THE SOUTH WITH A RADIUS OF 2,400.00 FEET, SAID POINT HAVING A RADIAL BEARING OF NORTH 01°35'03" WEST, THENCE WESTERLY ALONG SAID RIGHT OF WAY CURVE, BEING THE NORTH LINE OF LOTS 20 AND 21 OF SAID TRACT 4492, A DISTANCE OF 177.95 FEET THROUGH A CENTRAL ANGLE OF 04°14'53" TO A POINT ON A CURVE CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 25.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE A DISTANCE OF 16.17 FEET THROUGH A CENTRAL ANGLE OF 37°03'59" TO A POINT ON A LINE 33.00 FEET WEST OF AND PARALLEL WITH THE CENTERLINE OF TUSCOLA ROAD AS SHOWN ON SAID TRACT 4492; THENCE NORTH 00°03'30" WEST ALONG SAID PARALLEL LINE A DISTANCE OF 21.14 FEET TO A POINT ON A CURVE CONCAVE TO THE SOUTH AND HAVING A RADIUS OF 2,416.00 FEET; SAID CURVE BEING 16.00 FEET NORTH OF AND CONCENTRIC WITH THE NORTH LINE OF SAID LOTS 20 AND 21, SAID POINT HAVING A RADIAL BEARING OF NORTH 06°08'20" WEST, THENCE EASTERLY ALONG SAID CURVE A DISTANCE OF 192.06 FEET THROUGH A CENTRAL ANGLE OF 04°33'17"; THENCE SOUTH 01°35'03" EAST A DISTANCE OF 16.00 FEET TO THE **POINT OF BEGINNING**.

CONTAINS: 3,101 SQ. FT.

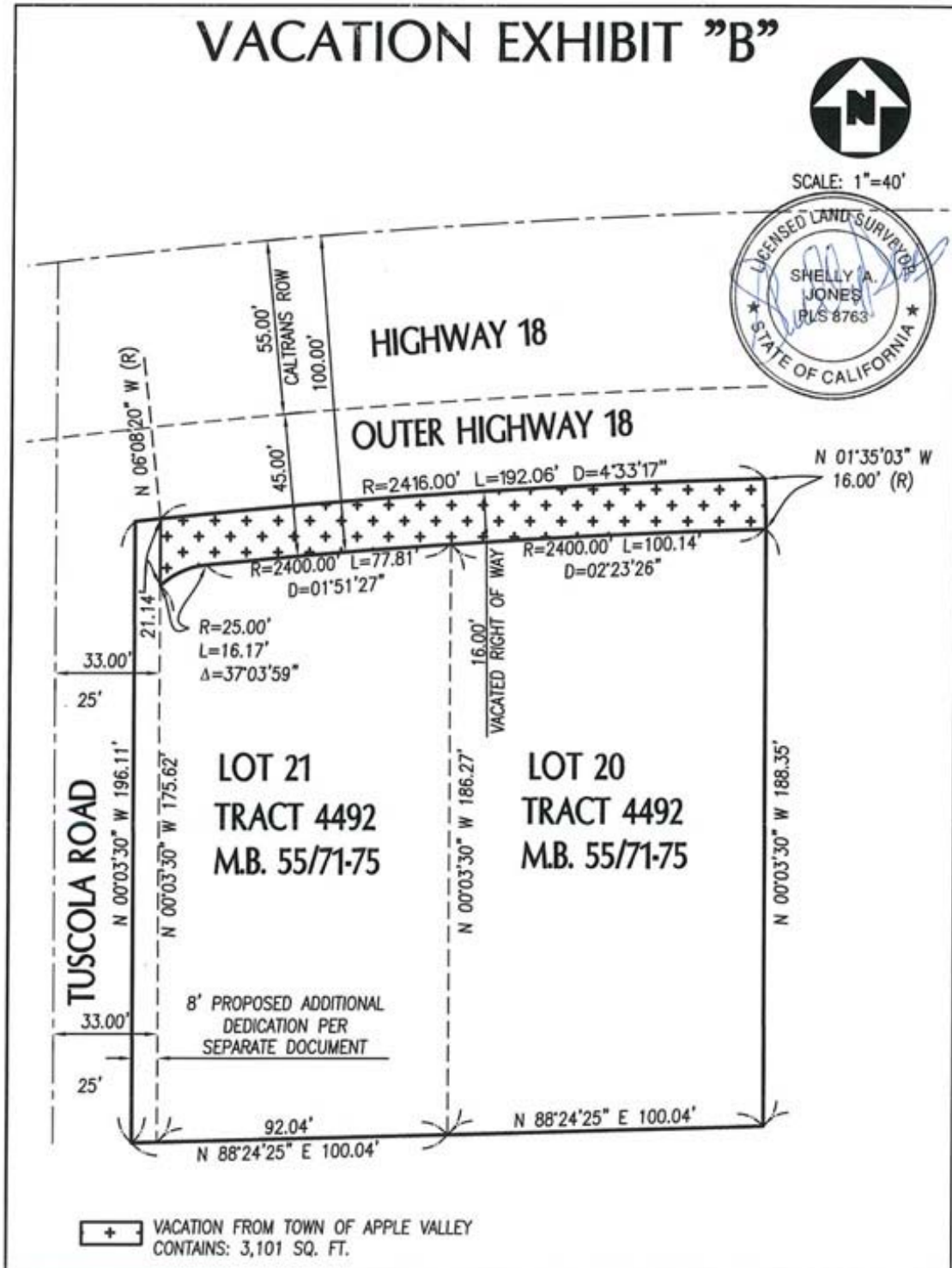
SEE EXHIBIT "B" ATTACHED HERETO AND MADE A PART OF.



VACATION EXHIBIT "B"



SCALE: 1"=40'





December 23, 2020

Ash Pathi, Indra & Co.
4470 W. Sunset Blvd. #302
Los Angeles, CA 90027

RE: Condition of Approval to Landscape a portion of Vacated Outer Highway 18 (APN: 0473-112-21)

Dear Mr. Pathi:

On July 21, 2020, you filed a "street vacation application" with the Town of Apple Valley to vacate a portion of Outer Highway 18 fronting the above referenced property, also known as the "Greenbrier Center". At their meeting of July 28, 2020, the Town Council initiated a "street vacation policy" discussion pertaining to installation and maintenance of new parkways created by the vacation of Outer Highways. Town records show that the Town's Engineering Department continued to work with your Engineer during this time to resolve several technical issues related to the street vacation application. On September 24, 2020, the Planning Division notified you that staff would wait until the Town Council formulated a street vacation policy to process the street vacation application being that the impending policy was pertinent to said application.

The Town Council had a discussion on September 8, 2020 related to the street vacation policy and a final resolution was adopted on October 27, 2020. On November 17, 2020, the Planning Division advised you of staff's determination based on the newly adopted Town policy. On December 14, 2020, staff met with you and your team to further discuss the conditions of approval to vacate a portion of Outer Highway 18, at which time you requested staff to reconsider our determination and apply what was in effect at the time the application was submitted.

After further consideration, Town staff will request that you be responsible for installing and maintaining the landscaping within the vacated portion of Outer Highway 18 in front of the Greenbrier Center as a condition of approval. No landscaping plans will be required provided the new landscaping matches the landscape design completed in front of Nico Plaza (APN: 0473-112-22), including matching the ground cover and plants at the same density. The Town will be responsible for installing and maintaining landscaping within the remaining portion of the right-of-way, between back of sidewalk and the edge of right-of-way. Staff believes this is consistent with the intent of the newly adopted Council policy to create a cohesive streetscape using both private and public resources.

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The Development Code requires the Planning Commission to make a consistency finding that the street vacation application is consistent with the Town's General Plan. If you notify me no later than January 8, 2021 that you would like to proceed, staff can schedule the application to proceed to the Planning Commission meeting of January 20, 2021 and the Town Council meeting of February 9, 2021. Town staff would like to coordinate timing of installation of the landscaping.

Should you decide not to proceed with the street vacation application, staff understands that the parking lot within the Greenbrier Center was redesigned and parking spaces presently encroach six feet into the right-of-way. These parking spaces will need to be returned to their original condition if the application ceases to proceed. Please let me know what you decide, and hope that we can work together to improving both the private and public portions of the street frontage in front of Nico Plaza and the Greenbrier Center.

Sincerely,

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end.

Daniel S. Alcayaga, AICP
Planning Manager

Cc: Doug Robertson, Town Manager
Lori Lamson, Assistant Town Manager
Orlando Acevedo, Director of Business Development and Communications
Brad Miller, Town Engineer

RESOLUTION NO. 2020-48

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY RELATING TO THE ALLOCATION AND MAINTENANCE OF ADDITIONAL LAND MADE AVAILABLE FOR LANDSCAPING, HARDSCAPING, AND PUBLIC RIGHT-OF-WAY AS A RESULT OF THE VACATION OF OUTER HIGHWAYS IN CONNECTION WITH RESOLUTION NO. 98-04

WHEREAS, on February 10, 1998, the Town Council of the Town of Apple Valley adopted Resolution No. 98-04 (Exhibit A) relating to the elimination and/or relocation of the outer highways; and

WHEREAS, in accordance with Resolution No. 98-04 it is the desire of the Town Council to remove the outer highways located within the community; and

WHEREAS, new development and street improvement requirements in the vicinity of the outer highways often results in the vacation of portions of the outer highway; and

WHEREAS, as the outer highways are vacated, additional land is made available for the public right of way, use by adjacent property owners, and for use as additional landscaping or public space; and

WHEREAS, the Town Council desires to provide Town staff with guidance relating to the allocation and future maintenance obligations for the additional land and the maintenance.

NOW, THEREFORE, THE APPLE VALLEY TOWN COUNCIL DOES HEREBY RESOLVE:

Section 1. As additional land is made available as a result of development projects involving the elimination of outer highways, Town staff shall consider the following nonexclusive factors in determining the appropriate portion of land to vacate to adjacent owners:

(A) Consistency of property lines with neighboring and nearby parcels along State Route 18 (SR-18);

(B) Current and anticipated future roadway and transportation infrastructure needs;

(C) Current and anticipated future public utility needs;

(D) Development needs and, specifically, the extent to which the vacation of land to adjacent landowners might facilitate development conducive to the public interest; and

(E) The adjacent property owner's commitments, if any, to maintain the public right of way or any adjacent landscaping districts.

In considering the above factors, and any others, Town staff may exercise discretion in determining the weight afforded to each.

Section 2. Land remaining under the Town's control following the vacation of the outer highway may be utilized for decorative hardscape, landscaping, and public art. In determining what use to put said land, Town staff shall consider all applicable planning documents, consistency with adjacent frontage, and the needs of the area affected among other factors.

Section 3. To the extent possible, in accordance with applicable laws, the installation and maintenance of the landscaping and hardscape within the parkway shall be made the responsibility of the adjacent property owner requesting the vacation of right-of-way of the outer highway due to new development of the adjacent property. This may be accomplished through the inclusion of the landscaped or hardscaped portion within a landscape assessment district or similar legislative mechanism to ensure the cost of maintenance is covered.

Section 4. The provisions of this Resolution are severable and if any provision of this Resolution is held invalid, that provision shall be severed from the Resolution and the remainder of this Resolution shall continue in full force and effect, and not be affected by such invalidity.

Section 5. This Resolution shall take effect immediately upon adoption.

Section 6. The Mayor shall sign this Resolution and the Town Clerk shall attest and certify to the passage and adoption thereof.

ADOPTED AND APPROVED by the Town Council of the Town of Apple Valley this 27th day of October 2020.



Scott Nassif, Mayor

ATTEST:


La Vonda M. Pearson, Town Clerk



STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO
TOWN OF APPLE VALLEY

I, LA VONDA M-PEARSON, Town Clerk for the Town of Apple Valley, Apple Valley, California, do hereby certify that Resolution No. 2020-48, duly and regularly adopted by the Town Council at a meeting thereof held on the 27th day of October, 2020 by the following vote:

AYES: Council members, Bishop, Cusack, Leon, Mayor Pro-Tem Emick, Mayor Nassif.

NOES: None.

ABSTAIN: None.

ABSENT: None.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Town of Apple Valley, California, this 27th day of October, 2020.

LA VONDA M-PEARSON, CMC
TOWN CLERK

By: 
Hannah Raleigh, Deputy Town Clerk

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