

**TOWN OF
APPLE VALLEY, CALIFORNIA**

AGENDA MATTER

Subject Item:

A REQUEST TO CONSIDER AN AMENDMENT TO TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE BY AMENDING VARIOUS SECTIONS OF CHAPTER 9.77 AS THEY RELATE TO THE REGULATIONS FOR WIRELESS TELECOMMUNICATION TOWERS AND ANTENNAS

Recommended Action:

**Move to open the public hearing and take testimony.
Close the public hearing. Then:**

1. **Determine** that, pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), the project is exempt from environmental review, stating 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.
2. **Find** the facts presented within the staff report support the required Findings for approval of an amendment to the Development Code, and adopt the Findings.
3. **Find** that the proposed Town Council Ordinance is consistent with the Goals and Objectives of the adopted Town of Apple Valley General Plan and that it is necessary to preserve the health, safety and general welfare of the citizens of Apple Valley.
4. **Move** to waive the reading of Ordinance No. 393 in its entirety and read by title only.
5. **Introduce** Ordinance No. 393, amending Chapter 9.77 as it relates to modifying the requirements for wireless telecommunication towers and antennas.
6. **Direct** staff to file a Notice of Exemption.

Proposed by: Planning Division **Item Number** _____

T. M. Approval: _____ **Budgeted Item** **Yes** **No** **N/A**

Town Council Mtg. January 13, 2009

Summary Statement:

At its meeting of August 26, 2008, the Apple Valley Town Council directed that the Wireless Telecommunication Ordinance be reviewed for a possible amendment and to specifically review the list of “Preferred Locations” and development standards.

Subsequent to the Council’s direction, the Planning Commission held a public workshop on October 29, 2008. The focus of the October 29th Commission workshop was to allow interested individuals the opportunity to discuss, in an open forum, how the current Development Code standards and “Preferred Locations” could be changed to encourage and facilitate development of wireless communication facilities. Two (2) representatives of T-Mobile were present at the workshop and offered information and comments that assisted the Planning Commission in its discussions.

On December 3, 2008, the Planning Commission approved Planning Commission Resolution No. 2008-008, recommending that the Town Council amend the Development Code as it pertains to wireless telecommunication facilities. In summary, the most significant changes recommended by the Planning Commission, are to establish an administrative review to streamline the process for certain types of facilities and lessen the limitations for “Preferred Locations”. Recommended changes to the existing Development Code are provided below. The underline represents new text and the ~~strikeout~~ represents text to be deleted. The Town Council should discuss these possible changes and add to them, delete them or modify them, as appropriate.

9.77.110 GENERAL REQUIREMENTS

J. Public Notice. For purposes of this Section, any conditional or special use request, variance request, deviation permit request or appeal of an administratively approved use or conditional use shall require public notice to all abutting property owners and all property owners of properties that are located within 1,500 feet of the affected site.

9.77.130 CONDITIONAL AND SPECIAL USE PERMITS

A. General. ~~The following provisions shall govern the issuance of a Conditional Use Permit for towers, antennas or related facilities by the Planning Commission: The Planning Commission or Director, as applicable, shall approve, approve with conditions, or deny the permit application.~~

B. Conditional Use Permit The following provisions shall govern the issuance of a Conditional Use Permit for towers, antennas or related facilities by the Planning Commission:

I. If the tower or antenna is not a permitted use under Section 9.77.100 of this Chapter and the Special Use Permit provisions do not apply, then a Conditional Use Permit shall be required for the construction of a tower or the placement of an antenna in all commercial, office, industrial and open space districts. The construction of a tower or the placement of an antenna is expressly prohibited within any residential district, except on/within an approved and adopted “Preferred Location” as defined within Section 9.77.180 of this Code, or completely concealed in compliance with the definition of concealment as specified within Subsection 9.77.130 ~~B D~~ 9 “Stealth/camouflaging of Facilities Required” of this Code.

2. Applications for Conditional Use Permits under this Section shall be subject to the procedures and requirements of Title 9, Chapter 9.16 of the Town of Apple Valley Municipal Code, except as modified in this Section.
3. In granting a Conditional Use Permit, the Planning Commission may impose conditions as prescribed in Title 9, Chapter 9.16 of the Town of Apple Valley Municipal Code, with specific consideration given to potential aesthetic impacts.
4. An applicant for a Conditional Use Permit shall submit the information described in this Section.

C. *Special Use Permit.* The following provisions shall govern the issuance of a Special Use Permit for towers, antennas or related facilities by the Director provided no Deviation Permit is being requested:

1. The Special Use Permit process applies to any of the following:
 - a. Totally concealed wireless telecommunication facilities;
 - b. Antennas that are architecturally integrated with an existing building or structure so as not to be recognized as an antenna;
 - c. Antennas that are mounted on existing water tanks, utility pole, ball field lighting and similar structures where the antenna height does not exceed the height by more than eight (8) feet with all equipment cabinets buried underground or concealed to the satisfaction of the Director;
 - d. Antennas that are mounted on existing or replaced traffic signal poles, provided that the pole design must be pre-approved and all equipment cabinets must be buried underground;
 - e. Antennas up to a maximum of fifteen (15) feet in height above an existing building or rooftop and that are screened from view from all adjacent public rights-of-way.
2. Applications for a Special Use Permit under this Section shall be subject to the procedures and requirements of Title 9, Chapter 9.16 of the Town of Apple Valley Municipal Code, except as modified in this Section.
3. In granting a Special Use Permit, the Director may impose conditions as prescribed in Title 9, Chapter 9.16 of the Town of Apple Valley Municipal Code, with specific consideration given to potential aesthetic impacts.
4. The Director shall refer the Special Use Permit to the Planning Commission when there are significant design issues, potential public controversy about the project or where a negative response to the public notice is received.
5. The public noticing requirement shall be in accordance with Section 9.77.110.J.
6. The applicant for a Special Use Permit shall submit the information described in this Section.

B-D.

Towers.

- 1. Information required.*** In addition to any information required for applications for Conditional or Special Use Permits pursuant to Title 9 of the Town of Apple Valley Municipal Code, applicants for a Conditional or Special Use Permit for a tower shall submit the following information:
 - a.*** A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning within one hundred fifty (150) feet of the edges of the property on which the tower is proposed to be located (including uses outside the Town of Apple Valley), General Plan classification of the site and all properties within the applicable separation distances set forth in Section 9.77.130 ~~B~~ D 6, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Director to be necessary to assess compliance with this ordinance.
 - b.*** Legal description of the site and leased parcel (if applicable).
 - c.*** The setback distance between the proposed tower and the nearest residential unit or residentially zoned properties.
 - d.*** The separation distance from other towers described in the inventory of existing sites submitted pursuant to Section 9.77.110 B shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), ~~if known.~~
 - e.*** A landscape plan showing specific landscape materials.
 - f.*** Method of fencing, finished color and the method of camouflage and illumination of the tower.
 - g.*** A description of compliance with Sections 9.77.110 B, C, D, E, F, I and K, 9.77.130 ~~B~~ D 4, 5 and 6, and all applicable federal, state or local laws.
 - h.*** A notarized statement by the applicant that states the design and construction of the tower as to whether construction of the tower will accommodate collocation of additional antennas for future users.
 - i.*** Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the Town of Apple Valley.
 - j.*** A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
 - k.*** A description of the feasible location(s) of future towers or antennas within the Town based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
 - l.*** Provide before and after photo simulations or renderings of the existing and proposed site showing a minimum of at least three view angles.

- m.* Samples of the materials proposed for use to stealth or conceal the proposed telecommunications facility.
 - n.* A propagation map showing existing and proposed telecommunications facilities based on the lowest possible height that demonstrates actual need. The study will also indicate parameters that were used in the calculation/production, the appropriateness of the signal strength, and the Effective Radiated Power (ERP) of the antennas, i.e., their wattage. The height and wattage of existing facilities shall also be included.
 - o.* Evidence demonstrating co-location or that co-location is impractical for reasons of: (a) lack of existing support structures; (b) insufficient structural support capabilities; (c) contractual provisions required by the owner in order to share an existing structure or to adapt an existing structure are unreasonable; (d) failing to meet needed service coverage area needs; or (e) other limiting factors that render existing tower unsuitable.
2. ***Factors considered in granting Conditional and Special Use Permits for towers.*** In addition to any standards for consideration of Conditional or Special Use Permit applications pursuant to Title 9 of the Town of Apple Valley Municipal Code, the Planning Commission or Director shall consider the following factors in determining whether to issue a Conditional or Special Use Permit. The Planning Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Planning Commission concludes that the goals of this Chapter are better served by granting a Deviation as prescribed in Section 9.77.200 “Deviation from Established Standards” of this Code for the following:
- a.* Height of the proposed tower;
 - b.* Proximity of the tower to residential structures and residential district boundaries;
 - c.* Nature of uses on adjacent and nearby properties;
 - d.* The impact the tower(s) may have upon the present and reasonably foreseen future aesthetics of the site, adjoining properties and general vicinity of the site;
 - e.* Design of the Tower including the equipment cabinet or structure, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 - f.* Proposed ingress and egress; and
 - g.* Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in Section 9.77.130 ~~B- D~~ 3 of this Chapter.
 - h.* Stealth and/or camouflaging techniques proposed.
3. ***Availability of suitable existing towers, other structures, or alternative technology.*** No new tower shall be permitted unless the applicant demonstrates to the reasonable

satisfaction of the Planning Commission or Director that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Commission or Director related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any or all of the following:

- a.* No existing towers or structures are located within the geographic area which meets the applicant's engineering requirements.
- b.* Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
- c.* Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment and cannot, with reasonable alterations or costs, be strengthened or reinforced.
- d.* The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- e.* The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- f.* The applicant demonstrates that there are other unmitigatable limiting factors that render existing towers and structures unsuitable.
- g.* The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable micro cell network using multiple low-powered transmitters/ receivers attached to a wire line system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

4. *Height.* A The maximum antenna height of ~~fifty (50)~~ fifty-five (55) feet plus ten (10) additional feet in overall height is permitted to accommodate an architectural feature such as, but not limited to tree branches, roof top, parapet, etc., for the purpose of providing additional camouflage or screening shall apply to all towers for which a Special Use Permit or Conditional Use Permit is required, except within "Preferred Locations" as defined within this Chapter, provided, however, that the Planning Commission may increase the height limitation requirements if the goals of this ordinance would be better served by granting a Deviation as prescribed in Section 9.77.200 "Deviation from Established Standards" of this Code.

5. *Setbacks.* The following setback requirements shall apply to all towers for which a Special Use Permit or Conditional Use Permit is required, provided, however, that the Planning Commission may reduce the standard setback requirements if the goals of this ordinance would be better served by granting a Deviation as prescribed in Section 9.77.200 "Deviation from Established Standards" of this Code:

- a. Towers must be set back a distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining lot line.
 - b. Guy wires and accessory buildings must satisfy the minimum zoning district setback requirements.
6. **Separation.** The following separation requirements shall apply to all towers and antennas for which a Special Use Permit or Conditional Use Permit is required; provided, however, that the Planning Commission may reduce the standard separation requirements if the goals of this ordinance would be better served by granting a Deviation as prescribed in Section 9.77.200 “Deviation from Established Standards” of this Code:
- a. Separation from off-site uses/designated areas:
 - 1) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 9.77.130-A.
 - 2) Separation requirements for towers shall comply with the minimum standards established in Table 9.77.130-A.

Table 9.77.130-A

Off-site Use Designated Areas	Separation Distance ¹
Single-family or duplex residential units ²	1,000 feet ³
Vacant residentially zoned lands.	1,000 feet ³
Existing multi-family residential units greater than duplex units	1,000 feet ³
Non-residentially zoned lands or non-residential uses, vacant or occupied	None; only zoning district minimum setbacks apply

- 3) Separation distances between towers.
 - a) Separation distances between towers shall be applicable for, and measured between, the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base for the existing tower and the proposed base, pursuant to a site plan of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 9.77.130-B.

¹ Separation measured from base of tower to closest property line.

² Includes modular homes and mobile homes used for living purposes.

³ Except within adopted Preferred Locations or where completely concealed as specified in Subsection 9.77.130 B D 9.

Table 9.77.130-B Existing Towers – Types

(Listed in Linear Ft) (Proposed Towers)	Lattice¹	Guyed¹	Monopole 50 Ft in Height or Greater¹	Monopole 50 Ft in Height or Less¹
Lattice	5,000 feet	5,000 feet	1,500 feet	750 feet
Guyed	5,000 feet ³	5,000 feet	1,500 feet	750 feet
Monopole 50 Ft in Height or Greater	1,500 feet	1,500 feet	1,500 feet	750 feet
Monopole 50 Ft in Height or Less	750 feet	750 feet	750 feet	750 feet

7. **Security fencing.** Towers shall be enclosed by security fencing (decorative block, wrought iron, or similar decorative fencing as approved by the Commission) not less than six feet in height and shall also be equipped with an appropriate anti-climbing device, provided however, that the Planning Commission may waive such requirements, as it deems appropriate. Chain link or similar material fencing is prohibited.

8. **Landscaping.** The following requirements shall govern the landscaping surrounding towers for which a Conditional or Special Use permit is required, provided, however, that the Planning Commission may waive such requirements if the goals of this ordinance would be better served by granting a Deviation as prescribed in Section 9.77.200 “Deviation from Established Standards” of this Code.
 - a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound. ~~from property used for residences.~~ The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.

 - b. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible.

 - c. All required and installed landscaping shall incorporated 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.

9. **Stealth/camouflaging of Facilities Required.** All telecommunication facilities located within the Town of Apple Valley shall be designed and constructed to be stealth/camouflaged. When used within this Code in reference to telecommunications facilities, equipment or structures, the term stealth or camouflage shall mean the following:

¹ Except within adopted Preferred Locations or where completely concealed as specified in Subsection 9.77.130 B D 9.

- a. Physical design and construction of telecommunications facilities, equipment and structures which, by the nature of said design or construction, do not draw undue attention to the structure;
- b. Physical design and construction which does not directly interfere with any established view shed as determined by the Planning Commission at an open public hearing;
- c. Physical design and construction which results in a facility or structure which cannot clearly be distinguished from the general character of the area in which they are located; and
- d. Physical design and construction that, by its size, shape, appearance, color or other physical attributes, do not cause a conflict with the appearance, character and aesthetics of the site upon which the facility is located, the surrounding properties or the general neighborhood in which they are located.

The Town has two (2) preferred methods to stealth/camouflage new telecommunication facilities on a site. First is that by its physical design and construction the facility/tower and associated antenna/supporting equipment is concealed within an architecturally designed feature/structure newly constructed on site, which matches or compliments the existing main structures on-site. Second, the location of a new facility/tower and associated antenna/supporting equipment on or within an existing structure or building already on a site with no obviously distinguishable changes to that structure.

Mono-palms are inconsistent with the stealth/camouflaging noted above and are, therefore, expressly prohibited. Mono-poles and mono-pines are discouraged, but may be considered by the Planning Commission in the review of a Conditional Use Permit application when the applicant can demonstrate the lack of a reasonable, available alternative consistent with the stealth/camouflaging above within the physical environment where the facility is proposed to be located.

9.77.150 BUILDINGS OR OTHER EQUIPMENT STORAGE

B. *Antennas Mounted on Utility Poles or Parking Lot Light Standards.* The equipment cabinet or structure used in association with antennas mounted on utility poles or light poles in commercial, office, industrial or open space districts shall be no greater than eight (8) feet in height and one hundred (100) square feet in area. ~~The structure or cabinet shall be screened by an evergreen hedge, or alternative approved by the Planning Commission, with an ultimate height of eight (8) feet and initial planted height of at least 36 inches.~~ All equipment cabinets shall be buried underground;

9.77.180 “PREFERRED LOCATIONS”

- any public park;
- any private park ~~of at least ten (10) acres in size~~, 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 ~~five (5)~~ three (3) acres in size;
- any commercially designated property of at least five (5) acres in size with a minimum of 30,000 square feet of developed structures on site;
- any developed ~~industrially designated zoned~~ property ~~of at least five (5) acres in size with a minimum of 50,000 square feet of developed structures on site;~~
- any public or private golf courses;
- any existing public facilities such as a water tank, police or fire stations.

FINDINGS:

Prior to the approval of any Amendment to the Development Code, the Council, based upon the advice of the Planning Commission, must make specific "Findings" as listed within the Code. Code Section 9.06.060 "Required Findings" of Chapter 9.06 Amendments to Zoning Provisions" specifies that two (2) Findings must be made in a positive manner to approve an Amendment. These Findings, along with a comment to address each, are presented below.

9.06.060 "Required Findings"

A. The proposed Amendment is consistent with the General Plan; and

Comment: The General Plan provides the basic framework for land development within the Town of Apple Valley, with the Development Code setting the specific standards and criteria to fulfill the General Plan's Goals and Policies. The proposed Code Amendment shall establish development standards for wireless telecommunication facilities. The proposed changes to the Development Code in modifying the development standards for wireless telecommunication facilities, is consistent with the General Plan and promotes a streamlined process and co-locating facilities.

B. The proposed Amendment will not be detrimental to the public health, safety or general welfare of the Town or its residents.

Comment: Amending the Code as proposed under Amendment No. 2008-002 will amend the Town's Development Code by modifying the development standards for wireless telecommunication development. The proposal provides specific standards for wireless communication facilities and encourages co-locating facilities and concealment. The amendment complies with the General Plan goals and policies and is consistent with the Federal Law. Thus, the amendment proposed results in a change to the Code that addresses the community's living environment by minimizing the visual impact of wireless facilities, while providing for the health, safety and general welfare of the citizens of the Town of Apple Valley.

RECOMMENDATION:

It is recommended that the Town Council approve Development Code Amendment No. 2008-002 by adopting Ordinance No. ____ amending Chapter 9.77 as it relates to modifying the requirements for wireless telecommunication towers and antennas.

Attachments:

1. Draft Ordinance No. _____
2. Planning Commission Resolution No. 2008-008
3. Minute Excerpt of Planning Commission Meeting of October 29, 2008 (Workshop) and December 3, 2008

ORDINANCE NO.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY AMENDING VARIOUS SECTIONS OF CHAPTER 9.77 AS THEY RELATE TO THE REGULATIONS FOR WIRELESS TELECOMMUNICATION TOWER AND ANTENNAS

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

Section 1. Recitals.

(i) Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley was adopted by the Town Council on October 24, 2000; and

(ii) 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

(iii) Specific changes to Title 9 “Development Code” of the Town of Apple Valley Municipal Code include amending various sections of Chapter 9.77, related to wireless telecommunication facilities.

(iv) On November 14, 2008, Development Code Amendment No. 2008-002 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

(v) 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

(vi) On October 29, 2008 and December 3, 2008 the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised the public hearing on Development Code Amendment No. 2008-002, receiving testimony from the public and adopted Planning Commission Resolution No. 2008-008 recommending adoption of this Ordinance; and

(vii) Development Code Amendment No. 2008-002 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.

Section 2. Findings.

(i) Find that the changes proposed by Development Code Amendment No. 2008-002 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

(ii) Find that, based upon the State Guidelines to Implement the California Environmental Quality Act (CEQA), the project is exempt from further environmental review. Section 15061(b)(3), states that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA

Section 3. Amend subsection J. “General Requirements” within Section 9.77.110 to read as follows:

9.77.110 GENERAL REQUIREMENTS

J. *Public Notice.* For purposes of this Section, any conditional or special use request, variance request, deviation permit request or appeal of an administratively approved use or conditional use shall require public notice to all abutting property owners and all property owners of properties that are located within 1,500 feet of the affected site.

Section 4. Amend Section 9.77.130 in its entirety to read as follows:

9.77.130 CONDITIONAL AND SPECIAL USE PERMITS

A. *General.* The Planning Commission or Director, as applicable, shall approve, approve with conditions, or deny the permit application.

B. *Conditional Use Permit.* The following provisions shall govern the issuance of a Conditional Use Permit for towers, antennas or related facilities by the Planning Commission:

- 1.** If the tower or antenna is not a permitted use under Section 9.77.100 of this Chapter and the Special Use Permit provisions do not apply, then a Conditional Use Permit shall be required for the construction of a tower or the placement of an antenna in all commercial, office, industrial and open space districts. The construction of a tower or the placement of an antenna is expressly prohibited within any residential district, except on/within an approved and adopted “Preferred Location” as defined within Section 9.77.180 of this Code, or completely concealed in compliance with the definition of concealment as specified within Subsection 9.77.130 D 9 “Stealth/camouflaging of Facilities Required” of this Code.
- 2.** Applications for Conditional Use Permits under this Section shall be subject to the procedures and requirements of Title 9, Chapter 9.16 of the Town of Apple Valley Municipal Code, except as modified in this Section.
- 3.** In granting a Conditional Use Permit, the Planning Commission may impose conditions as prescribed in Title 9, Chapter 9.16 of the Town of Apple Valley Municipal Code, with specific consideration given to potential aesthetic impacts.

4. An applicant for a Conditional Use Permit shall submit the information described in this Section.

C. **Special Use Permit.** The following provisions shall govern the issuance of a Special Use Permit for towers, antennas or related facilities by the Director provided no Deviation Permit is being requested:

1. The Special Use Permit process applies to any of the following:
 - a. Totally concealed wireless telecommunication facilities;
 - b. Antennas that are architecturally integrated with an existing building or structure so as not to be recognized as an antenna;
 - c. Antennas that are mounted on existing water tanks, utility pole, ball field lighting and similar structures where the antenna height does not exceed the height by more than eight (8) feet with all equipment cabinets buried underground or concealed to the satisfaction of the Director;
 - d. Antennas that are mounted on existing or replaced traffic signal poles, provided that the pole design must be pre-approved and all equipment cabinets must be buried underground;
 - e. Antennas up to a maximum of fifteen (15) feet in height above an existing building or rooftop and that are screened from view from all adjacent public rights-of-way.
2. Applications for a Special Use Permit under this Section shall be subject to the procedures and requirements of Title 9, Chapter 9.16 of the Town of Apple Valley Municipal Code, except as modified in this Section.
3. In granting a Special Use Permit, the Director may impose conditions as prescribed in Title 9, Chapter 9.16 of the Town of Apple Valley Municipal Code, with specific consideration given to potential aesthetic impacts.
4. The Director shall refer the Special Use Permit to the Planning Commission when there are significant design issues, potential public controversy about the project or where a negative response to the public notice is received.
5. The public noticing requirement shall be in accordance with Section 9.77.110.J.
6. An applicant for a Special Use Permit shall submit the information described in this Section.

D. **Towers.**

1. **Information required.** In addition to any information required for applications for Conditional or Special Use Permits pursuant to Title 9 of the Town of Apple Valley Municipal Code, applicants for a Conditional or Special Use Permit for a tower shall submit the following information:
 - a. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning within one

hundred fifty (150) feet of the edges of the property on which the tower is proposed to be located (including uses outside the Town of Apple Valley), General Plan classification of the site and all properties within the applicable separation distances set forth in Section 9.77.130 D 6, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Director to be necessary to assess compliance with this ordinance.

- b.* Legal description of the site and leased parcel (if applicable).
- c.* The setback distance between the proposed tower and the nearest residential unit or residentially zoned properties.
- d.* The separation distance from other towers described in the inventory of existing sites submitted pursuant to Section 9.77.110 B shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s).
- e.* A landscape plan showing specific landscape materials.
- f.* Method of fencing, finished color and the method of camouflage and illumination of the tower.
- g.* A description of compliance with Sections 9.77.110 B, C, D, E, F, I and K, 9.77.130 D 4, 5 and 6, and all applicable federal, state or local laws.
- h.* A notarized statement by the applicant that states the design and construction of the tower will accommodate collocation of additional antennas for future users.
- i.* Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the Town of Apple Valley.
- j.* A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
- k.* A description of the feasible location(s) of future towers or antennas within the Town based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
- l.* Provide before and after photo simulations or renderings of the existing and proposed site showing a minimum of at least three view angles.
- m.* Samples of the materials proposed for use to stealth or conceal the proposed telecommunications facility.
- n.* A propagation map showing existing and proposed telecommunications facilities based on the lowest possible height that demonstrate actual need. The study will also indicate parameters that were used in the calculation/production, the appropriateness of the signal strength and the Effective Radiated Power (ERP) of

the antennas, i.e., their wattage. The height and wattage of existing facilities shall also be included.

- o.* Evidence demonstrating co-location or that co-location is impractical for reasons of: (a) lack of existing support structures; (b) insufficient structural support capabilities; (c) contractual provisions required by the owner in order to share an existing structure or to adapt an existing structure are unreasonable; (d) failing to meet needed service coverage area needs; or (e) other limiting factors that render existing tower unsuitable.

2. *Factors considered in granting Conditional and Special Use Permits for towers.* In addition to any standards for consideration of Conditional or Special Use Permit applications pursuant to Title 9 of the Town of Apple Valley Municipal Code, the Planning Commission or Director shall consider the following factors in determining whether to issue a Conditional or Special Use Permit. The Planning Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Planning Commission concludes that the goals of this Chapter are better served by granting a Deviation as prescribed in Section 9.77.200 “Deviation from Established Standards” of this Code for the following:

- a.* Height of the proposed tower;
- b.* Proximity of the tower to residential structures and residential district boundaries;
- c.* Nature of uses on adjacent and nearby properties;
- d.* The impact the tower(s) may have upon the present and reasonably foreseen future aesthetics of the site, adjoining properties and general vicinity of the site;
- e.* Design of the Tower including the equipment cabinet or structure, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- f.* Proposed ingress and egress; and
- g.* Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in Section 9.77.130 D 3 of this Chapter.
- h.* Stealth and/or camouflaging techniques proposed.

3. *Availability of suitable existing towers, other structures, or alternative technology.* No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission or Director that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant’s proposed antenna. An applicant shall submit information requested by the Planning Commission or Director related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant’s proposed antenna may consist of any or all of the following:

- a.* No existing towers or structures are located within the geographic area which meets the applicant's engineering requirements.
 - b.* Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
 - c.* Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment and cannot, with reasonable alterations or costs, be strengthened or reinforced.
 - d.* The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - e.* The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - f.* The applicant demonstrates that there are other unmitigatable limiting factors that render existing towers and structures unsuitable.
 - g.* The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable micro cell network using multiple low-powered transmitters/ receivers attached to a wire line system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- 4. *Height.*** The maximum antenna height of fifty-five (55) feet plus ten (10) additional feet in overall height is permitted to accommodate an architectural feature such as, but not limited to tree branches, roof top, parapet, etc., for the purpose of providing additional camouflage or screening shall apply to all towers for which a Special Use Permit or Conditional Use Permit is required, except within "Preferred Locations" as defined within this Chapter, provided, however, that the Planning Commission may increase the height limitation requirements if the goals of this ordinance would be better served by granting a Deviation as prescribed in Section 9.77.200 "Deviation from Established Standards" of this Code.
- 5. *Setbacks.*** The following setback requirements shall apply to all towers for which a Special Use Permit or Conditional Use Permit is required, provided, however, that the Planning Commission may reduce the standard setback requirements if the goals of this ordinance would be better served by granting a Deviation as prescribed in Section 9.77.200 "Deviation from Established Standards" of this Code:
- a.* Towers must be set back a distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining lot line.
 - b.* Guy wires and accessory buildings must satisfy the minimum zoning district setback requirements.

6. **Separation.** The following separation requirements shall apply to all towers and antennas for which a Special Use Permit or Conditional Use Permit is required; provided, however, that the Planning Commission may reduce the standard separation requirements if the goals of this ordinance would be better served by granting a Deviation as prescribed in Section 9.77.200 “Deviation from Established Standards” of this Code:

- a. Separation from off-site uses/designated areas:
 - 1) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 9.77.130-A.
 - 2) Separation requirements for towers shall comply with the minimum standards established in Table 9.77.130-A.

Table 9.77.130-A

Off-site Use Designated Areas	Separation Distance ¹
Single-family or duplex residential units ²	1,000 feet ³
Vacant residentially zoned lands.	1,000 feet ³
Existing multi-family residential units greater than duplex units	1,000 feet ³
Non-residentially zoned lands or non-residential uses, vacant or occupied	None; only zoning district minimum setbacks apply

- 3) Separation distances between towers.
 - a) Separation distances between towers shall be applicable for, and measured between, the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base for the existing tower and the proposed base, pursuant to a site plan of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 9.77.130-B.

¹ Separation measured from base of tower to closest property line.

² Includes modular homes and mobile homes used for living purposes.

³ Except within adopted Preferred Locations or where completely concealed as specified in Subsection 9.77.130 D 9.

Table 9.77.130-B Existing Towers – Types

(Listed in Linear Ft) (Proposed Towers)	Lattice¹	Guyed¹	Monopole 50 Ft in Height or Greater¹	Monopole 50 Ft in Height or Less¹
Lattice	5,000 feet	5,000 feet	1,500 feet	750 feet
Guyed	5,000 feet ³	5,000 feet	1,500 feet	750 feet
Monopole 50 Ft in Height or Greater	1,500 feet	1,500 feet	1,500 feet	750 feet
Monopole 50 Ft in Height or Less	750 feet	750 feet	750 feet	750 feet

7. **Security fencing.** Towers shall be enclosed by security fencing (decorative block, wrought iron, or similar decorative fencing as approved by the Commission) not less than six feet in height and shall also be equipped with an appropriate anti-climbing device, provided however, that the Planning Commission may waive such requirements, as it deems appropriate. Chain link or similar material fencing is prohibited.

8. **Landscaping.** The following requirements shall govern the landscaping surrounding towers for which a Conditional or Special Use permit is required, provided, however, that the Planning Commission may waive such requirements if the goals of this ordinance would be better served by granting a Deviation as prescribed in Section 9.77.200 “Deviation from Established Standards” of this Code.
 - a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.
 - b. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible.
 - c. All required and installed landscaping shall incorporated 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.

9. **Stealth/camouflaging of Facilities Required.** All telecommunication facilities located within the Town of Apple Valley shall be designed and constructed to be stealth/camouflaged. When used within this Code in reference to telecommunications facilities, equipment or structures, the term stealth or camouflage shall mean the following:

¹ Except within adopted Preferred Locations or where completely concealed as specified in Subsection 9.77.130 D 9.

- a. Physical design and construction of telecommunications facilities, equipment and structures which, by the nature of said design or construction, do not draw undue attention to the structure;
- b. Physical design and construction which does not directly interfere with any established view shed as determined by the Planning Commission at an open public hearing;
- c. Physical design and construction which results in a facility or structure which cannot clearly be distinguished from the general character of the area in which they are located; and
- d. Physical design and construction that, by its size, shape, appearance, color or other physical attributes, do not cause a conflict with the appearance, character and aesthetics of the site upon which the facility is located, the surrounding properties or the general neighborhood in which they are located.

The Town has two (2) preferred methods to stealth/camouflage new telecommunication facilities on a site. First is that by its physical design and construction the facility/tower and associated antenna/supporting equipment is concealed within an architecturally designed feature/structure newly constructed on site, which matches or compliments the existing main structures on-site. Second, the location of a new facility/tower and associated antenna/supporting equipment on or within an existing structure or building already on a site with no obviously distinguishable changes to that structure.

Mono-palms are inconsistent with the stealth/camouflaging noted above and are, therefore, expressly prohibited. Mono-poles and mono-pines are discouraged, but may be considered by the Planning Commission in the review of a Conditional Use Permit application when the applicant can demonstrate the lack of a reasonable, available alternative consistent with the stealth/camouflaging above within the physical environment where the facility is proposed to be located.

Section 5. Amend subsection B. “Buildings or Other Equipment Storage” within Section 9.77.150 to read as follows:

9.77.150 BUILDINGS OR OTHER EQUIPMENT STORAGE

- B. *Antennas Mounted on Utility Poles or Parking Lot Light Standards.*** The equipment cabinet or structure used in association with antennas mounted on utility poles or light poles in commercial, office, industrial or open space districts shall be no greater than eight (8) feet in height and one hundred (100) square feet in area. All equipment cabinets shall be buried underground;

Section 6. Amend Section 9.77.180 “Preferred Locations” in its entirety to read as follows:

9.77.180 “PREFERRED LOCATIONS”

- 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) acres in size;
- any commercially designated property of at least five (5) acres in size with a minimum of 30,000 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.

Section 7. Invalidation. The amendment by this Ordinance of Title 9 “Development Code” of the Town of Apple Valley Municipal Code as previously in effect, or of any other prior enactment, shall not be construed to invalidate any entitlement exercised or proceeding taken pursuant to such Title or other enactment while the same was in effect.

Section 8. 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 9. Effective Date. This Ordinance shall become effective thirty (30) days after the date of its adoption.

Section 10. 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.

Adopted by the Town Council and signed by the Mayor and attested by the Town Clerk this ____ day of January, 2009.

Honorable Rick Roelle, Mayor

ATTEST:

La Vonda M-Pearson, Town Clerk

Approved as to form:

Approved as to content:

Mr. John Brown, Town Attorney

Mr. Frank Robinson, Town Manager

PLANNING COMMISSION RESOLUTION No. 2008-008

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL AMEND TITLE 9 “DEVELOPMENT CODE” OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE BY AMENDING VARIOUS SECTIONS OF CHAPTER 9.77 AS THEY RELATE TO THE REGULATIONS FOR WIRELESS TELECOMMUNICATION

WHEREAS, Title 9 “Development Code” of the Municipal Code of the Town of Apple Valley was adopted by the Town Council on October 24, 2000; 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, specific changes are proposed to Title 9 “Development Code” of the Town of Apple Valley Municipal Code by amending various sections of the Code as they relate to the regulations for wireless telecommunication; and

WHEREAS, on November 14, 2008, Development Code Amendment No. 2008-002 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

WHEREAS, pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be determined 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 may have a significant effect on the environment, the activity is EXEMPT from further CEQA review; and

WHEREAS, on December 3, 2008, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2008-002, receiving testimony from the public; and

WHEREAS, Development Code Amendment No. 2008-002 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.

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. 2008-002 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

Section 2. Pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be determined that the Code amendment is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty, as with the proposed Code Amendment, that there is no possibility that the proposal approved under Development Code Amendment No. 2008-002 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

Section 3. Amend subsection J. “General Requirements” within Section 9.77.110” to read as follows:

9.77.110 GENERAL REQUIREMENTS

J. *Public Notice.* For purposes of this Section, any conditional or special use request, variance request, deviation permit request or appeal of an administratively approved use or conditional use shall require public notice to all abutting property owners and all property owners of properties that are located within 1,500 feet of the affected site.

Section 4. Amend Section 9.77.130 in its entirety to read as follows:

9.77.130 CONDITIONAL AND SPECIAL USE PERMITS

A. *General.* The Planning Commission or Director, as applicable, shall approve, approve with conditions, or deny the permit application.

B. *Conditional Use Permit.* The following provisions shall govern the issuance of a Conditional Use Permit for towers, antennas or related facilities by the Planning Commission:

- 1.** If the tower or antenna is not a permitted use under Section 9.77.100 of this Chapter and the Special Use Permit provisions do not apply, then a Conditional Use Permit shall be required for the construction of a tower or the placement of an antenna in all commercial, office, industrial and open space districts. The construction of a tower or the placement of an antenna is expressly prohibited within any residential district, except on/within an approved and adopted “Preferred Location” as defined within Section 9.77.180 of this Code, or completely concealed in compliance with the definition of concealment as specified within Subsection 9.77.130 D 9 “Stealth/camouflaging of Facilities Required” of this Code.
- 2.** Applications for Conditional Use Permits under this Section shall be subject to the procedures and requirements of Title 9, Chapter 9.16 of the Town of Apple Valley Municipal Code, except as modified in this Section.
- 3.** In granting a Conditional Use Permit, the Planning Commission may impose conditions as prescribed in Title 9, Chapter 9.16 of the Town of Apple Valley Municipal Code, with specific consideration given to potential aesthetic impacts.

4. An applicant for a Conditional Use Permit shall submit the information described in this Section.

C. **Special Use Permit.** The following provisions shall govern the issuance of a Special Use Permit for towers, antennas or related facilities by the Director provided no Deviation Permit is being requested:

1. The Special Use Permit process applies to any of the following:
 - a. Totally concealed wireless telecommunication facilities;
 - b. Antennas that are architecturally integrated with an existing building or structure so as not to be recognized as an antenna;
 - c. Antennas that are mounted on existing water tanks, utility pole, ball field lighting and similar structures where the antenna height does not exceed the height by more than eight (8) feet with all equipment cabinets buried underground or concealed to the satisfaction of the Director;
 - d. Antennas that are mounted on existing or replaced traffic signal poles, provided that the pole design must be pre-approved and all equipment cabinets must be buried underground;
 - e. Antennas up to a maximum of fifteen (15) feet in height above an existing building or rooftop and that are screened from view from all adjacent public rights-of-way.
2. Applications for a Special Use Permit under this Section shall be subject to the procedures and requirements of Title 9, Chapter 9.16 of the Town of Apple Valley Municipal Code, except as modified in this Section.
3. In granting a Special Use Permit, the Director may impose conditions as prescribed in Title 9, Chapter 9.16 of the Town of Apple Valley Municipal Code, with specific consideration given to potential aesthetic impacts.
4. The Director shall refer the Special Use Permit to the Planning Commission when there are significant design issues, potential public controversy about the project or where a negative response to the public notice is received.
5. The public noticing requirement shall be in accordance with Section 9.77.110.J.
6. An applicant for a Special Use Permit shall submit the information described in this Section.

D. **Towers.**

1. **Information required.** In addition to any information required for applications for Conditional or Special Use Permits pursuant to Title 9 of the Town of Apple Valley Municipal Code, applicants for a Conditional or Special Use Permit for a tower shall submit the following information:
 - a. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning within one

hundred fifty (150) feet of the edges of the property on which the tower is proposed to be located (including uses outside the Town of Apple Valley), General Plan classification of the site and all properties within the applicable separation distances set forth in Section 9.77.130 D 6, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Director to be necessary to assess compliance with this ordinance.

- b.* Legal description of the site and leased parcel (if applicable).
- c.* The setback distance between the proposed tower and the nearest residential unit or residentially zoned properties.
- d.* The separation distance from other towers described in the inventory of existing sites submitted pursuant to Section 9.77.110 B shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s).
- e.* A landscape plan showing specific landscape materials.
- f.* Method of fencing, finished color and the method of camouflage and illumination of the tower.
- g.* A description of compliance with Sections 9.77.110 B, C, D, E, F, I and K, 9.77.130 D 4, 5 and 6, and all applicable federal, state or local laws.
- h.* A notarized statement by the applicant that states the design and construction of the tower will accommodate collocation of additional antennas for future users.
- i.* Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the Town of Apple Valley.
- j.* A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
- k.* A description of the feasible location(s) of future towers or antennas within the Town based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
- l.* Provide before and after photo simulations or renderings of the existing and proposed site showing a minimum of at least three view angles.
- m.* Samples of the materials proposed for use to stealth or conceal the proposed telecommunications facility.
- n.* A propagation map showing existing and proposed telecommunications facilities based on the lowest possible height that demonstrate actual need. The study will also indicate parameters that were used in the calculation/production, the appropriateness of the signal strength and the Effective Radiated Power (ERP) of

the antennas, i.e., their wattage. The height and wattage of existing facilities shall also be included.

- o.* Evidence demonstrating co-location or that co-location is impractical for reasons of: (a) lack of existing support structures; (b) insufficient structural support capabilities; (c) contractual provisions required by the owner in order to share an existing structure or to adapt an existing structure are unreasonable; (d) failing to meet needed service coverage area needs; or (e) other limiting factors that render existing tower unsuitable.

2. *Factors considered in granting Conditional and Special Use Permits for towers.* In addition to any standards for consideration of Conditional or Special Use Permit applications pursuant to Title 9 of the Town of Apple Valley Municipal Code, the Planning Commission or Director shall consider the following factors in determining whether to issue a Conditional or Special Use Permit. The Planning Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Planning Commission concludes that the goals of this Chapter are better served by granting a Deviation as prescribed in Section 9.77.200 “Deviation from Established Standards” of this Code for the following:

- a.* Height of the proposed tower;
- b.* Proximity of the tower to residential structures and residential district boundaries;
- c.* Nature of uses on adjacent and nearby properties;
- d.* The impact the tower(s) may have upon the present and reasonably foreseen future aesthetics of the site, adjoining properties and general vicinity of the site;
- e.* Design of the Tower including the equipment cabinet or structure, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- f.* Proposed ingress and egress; and
- g.* Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in Section 9.77.130 D 3 of this Chapter.
- h.* Stealth and/or camouflaging techniques proposed.

3. *Availability of suitable existing towers, other structures, or alternative technology.* No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission or Director that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant’s proposed antenna. An applicant shall submit information requested by the Planning Commission or Director related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant’s proposed antenna may consist of any or all of the following:

- a.* No existing towers or structures are located within the geographic area which meets the applicant's engineering requirements.
 - b.* Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
 - c.* Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment and cannot, with reasonable alterations or costs, be strengthened or reinforced.
 - d.* The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - e.* The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - f.* The applicant demonstrates that there are other unmitigatable limiting factors that render existing towers and structures unsuitable.
 - g.* The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable micro cell network using multiple low-powered transmitters/ receivers attached to a wire line system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- 4. *Height.*** The maximum antenna height of fifty-five (55) feet plus ten (10) additional feet in overall height is permitted to accommodate an architectural feature such as, but not limited to tree branches, roof top, parapet, etc., for the purpose of providing additional camouflage or screening shall apply to all towers for which a Special Use Permit or Conditional Use Permit is required, except within "Preferred Locations" as defined within this Chapter, provided, however, that the Planning Commission may increase the height limitation requirements if the goals of this ordinance would be better served by granting a Deviation as prescribed in Section 9.77.200 "Deviation from Established Standards" of this Code.
- 5. *Setbacks.*** The following setback requirements shall apply to all towers for which a Special Use Permit or Conditional Use Permit is required, provided, however, that the Planning Commission may reduce the standard setback requirements if the goals of this ordinance would be better served by granting a Deviation as prescribed in Section 9.77.200 "Deviation from Established Standards" of this Code:
- a.* Towers must be set back a distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining lot line.
 - b.* Guy wires and accessory buildings must satisfy the minimum zoning district setback requirements.

6. **Separation.** The following separation requirements shall apply to all towers and antennas for which a Special Use Permit or Conditional Use Permit is required; provided, however, that the Planning Commission may reduce the standard separation requirements if the goals of this ordinance would be better served by granting a Deviation as prescribed in Section 9.77.200 “Deviation from Established Standards” of this Code:
- a. Separation from off-site uses/designated areas:
 - 1) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 9.77.130-A.
 - 2) Separation requirements for towers shall comply with the minimum standards established in Table 9.77.130-A.

Table 9.77.130-A

Off-site Use Designated Areas	Separation Distance ¹
Single-family or duplex residential units ²	1,000 feet ³
Vacant residentially zoned lands.	1,000 feet ³
Existing multi-family residential units greater than duplex units	1,000 feet ³
Non-residentially zoned lands or non-residential uses, vacant or occupied	None; only zoning district minimum setbacks apply

- 3) Separation distances between towers.
 - a) Separation distances between towers shall be applicable for, and measured between, the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base for the existing tower and the proposed base, pursuant to a site plan of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 9.77.130-B.

¹ Separation measured from base of tower to closest property line.

² Includes modular homes and mobile homes used for living purposes.

³ Except within adopted Preferred Locations or where completely concealed as specified in Subsection 9.77.130 D 9.

Table 9.77.130-B Existing Towers – Types

(Listed in Linear Ft) (Proposed Towers)	Lattice¹	Guyed¹	Monopole 50 Ft in Height or Greater¹	Monopole 50 Ft in Height or Less¹
Lattice	5,000 feet	5,000 feet	1,500 feet	750 feet
Guyed	5,000 feet ³	5,000 feet	1,500 feet	750 feet
Monopole 50 Ft in Height or Greater	1,500 feet	1,500 feet	1,500 feet	750 feet
Monopole 50 Ft in Height or Less	750 feet	750 feet	750 feet	750 feet

7. **Security fencing.** Towers shall be enclosed by security fencing (decorative block, wrought iron, or similar decorative fencing as approved by the Commission) not less than six feet in height and shall also be equipped with an appropriate anti-climbing device, provided however, that the Planning Commission may waive such requirements, as it deems appropriate. Chain link or similar material fencing is prohibited.

8. **Landscaping.** The following requirements shall govern the landscaping surrounding towers for which a Conditional or Special Use permit is required, provided, however, that the Planning Commission may waive such requirements if the goals of this ordinance would be better served by granting a Deviation as prescribed in Section 9.77.200 “Deviation from Established Standards” of this Code.
 - a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.

 - b. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible.

 - c. All required and installed landscaping shall be incorporated 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.

9. **Stealth/camouflaging of Facilities Required.** All telecommunication facilities located within the Town of Apple Valley shall be designed and constructed to be stealth/camouflaged. When used within this Code in reference to telecommunications facilities, equipment or structures, the term stealth or camouflage shall mean the following:

¹ Except within adopted Preferred Locations or where completely concealed as specified in Subsection 9.77.130 D 9.

- a. Physical design and construction of telecommunications facilities, equipment and structures which, by the nature of said design or construction, do not draw undue attention to the structure;
- b. Physical design and construction which does not directly interfere with any established view shed as determined by the Planning Commission at an open public hearing;
- c. Physical design and construction which results in a facility or structure which cannot clearly be distinguished from the general character of the area in which they are located; and
- d. Physical design and construction that, by its size, shape, appearance, color or other physical attributes, do not cause a conflict with the appearance, character and aesthetics of the site upon which the facility is located, the surrounding properties or the general neighborhood in which they are located.

The Town has two (2) preferred methods to stealth/camouflage new telecommunication facilities on a site. First is that by its physical design and construction the facility/tower and associated antenna/supporting equipment is concealed within an architecturally designed feature/structure newly constructed on site, which matches or compliments the existing main structures on-site. Second, the location of a new facility/tower and associated antenna/supporting equipment on or within an existing structure or building already on a site with no obviously distinguishable changes to that structure.

Mono-palms are inconsistent with the stealth/camouflaging noted above and are, therefore, expressly prohibited. Mono-poles and mono-pines are discouraged, but may be considered by the Planning Commission in the review of a Conditional Use Permit application when the applicant can demonstrate the lack of a reasonable, available alternative consistent with the stealth/camouflaging above within the physical environment where the facility is proposed to be located.

Section 5. Amend subsection B. “Buildings or Other Equipment Storage” within Section 9.77.150” to read as follows:

9.77.150 BUILDINGS OR OTHER EQUIPMENT STORAGE

B. *Antennas Mounted on Utility Poles or Parking Lot Light Standards.* The equipment cabinet or structure used in association with antennas mounted on utility poles or light poles in commercial, office, industrial or open space districts shall be no greater than eight (8) feet in height and one hundred (100) square feet in area. All equipment cabinets shall be buried underground;

Section 6. Amend Section 9.77.180 “Preferred Locations” in its entirety to read as follows:

9.77.180 “PREFERRED LOCATIONS”

- 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) acres in size;
- any commercially designated property of at least five (5) acres in size with a minimum of 30,000 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.

Approved and adopted by the Planning Commission of the Town of Apple Valley this 3rd day of December, 2008

David Hernandez, Chairman

ATTEST:

I, Patty Hevle, Secretary to the Planning Commission of the Town of Apple Valley, California, do hereby certify that the foregoing Planning Commission Resolution No. 2008-008 was duly and regularly adopted by the Planning Commission at a regular meeting thereof, held on the 3rd day of December, 2008, by the following vote, to-wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Patty Hevle, Planning Commission Secretary

MINUTES

TOWN OF APPLE VALLEY PLANNING COMMISSION Special Meeting/Workshop

Wednesday, October 29, 2008

CALL TO ORDER

The workshop meeting of the Planning Commission was called to order at 6:00 p.m., by Chairman David Hernandez of the Planning Commission.

ROLL CALL

Roll call was taken with the following Commissioners present:

Commissioner Bruce Kallen
Commissioner John Putko
Vice-Chairman Bob Tinsley
Chairman David Hernandez

Absent:

Commissioner Dick Allen

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was given by Commissioner Kallen

INVOCATION

None.

Staff Present:

Becky Reynolds, Principal Planner; Carol Miller, Senior Planner and Patty Hevle, Planning Commission Secretary.

WORKSHOP

The purpose of the workshop was for the Planning Commission to discuss and receive comments regarding the requirements for wireless telecommunication towers and antennas, specifically relating to "Preferred Locations".

Ms. Carol Miller, Senior Planner presented the staff report as filed by the Planning Division.

Commissioner Kallen requested to know what Development Code restrictions provided the biggest challenges to the telecommunications industry.

Ms. Miller commented that many deviation requests are submitted with respect to separation distances from residential properties, height requirements, and aesthetically blending into the surroundings.

Mr. Donald Nelson, trustee from the Hi Desert Church Center for Spiritual Living on Corwin Road, stated they were interested in having a cell tower at the church site. He stated the height did not concern them, as the tower would be placed in the rear of the property. He further commented that a tree-look design would blend in with the cypress trees already on the property.

Ms. Jane Norine, representing T-Mobile and other carriers, stated the separation requirement is one (1) of the issues, as well as the fifty (50)-foot height requirement for stealth towers. She stated that, for camouflage purposes, they would need an additional ten (10) feet over the fifty (50)-foot requirement. She further stated that other cities only require a fifty (50)-foot setback, not the 1000 feet that Apple Valley currently requires for residential areas.

Commissioner Kallen requested to know how many cell sites would be needed to provide the required coverage.

Ms. Norine responded she had no idea what the future demand would be but, currently, T-Mobile expects to submit at least four (4) to five (5) applications within the next two (2) years. She commented that, if they were unable to meet the continuous demand due to the massive use of cell phones, dropped calls would result.

Mr. Ed Gala, from Reliant Land Services, representing T-Mobile, commented that the trend in telecommunications seems to be migrating to wireless right now and requested some flexibility regarding separation requirements. He also suggested that stealth reviews be approved by the Planning Director and not come before the Commission. He stated that a 60-foot pole covers a three (3)-mile area and, if you have a co-locator for that tower, then their area of coverage would be less because they would not be at the 65-foot height. Mr. Gala added that the higher the tower, the more area it would cover. He stated that co-locating requires at least ten (10) feet between the carriers.

Chief Art Bishop, of the Apple Valley Fire Protection District, requested that the southwest corner of Johnson and Dale Evans Parkway be considered a "Preferred Location", as that area will eventually become a government entity. He stated it encompasses thirteen (13) acres adjoining the Wal-Mart Distribution Center.

Ms. Miller responded that acreage was not an issue; however, after the fire facility was built, it would be considered a "Preferred Location".

Commissioner Kallen requested to know San Bernardino County's requirements within the Sphere of Influence areas.

Ms. Miller responded she did not have that information. She stated that anything within the Sphere of Influence is under San Bernardino County's regulations, but the Town would have the opportunity to express its concerns for any project within its Sphere of Influence.

Vice-Chairman Tinsley had questions concerning cell phone range if no new towers were installed.

Ms. Norine responded that, if the existing cell site were at capacity, then you would not be able to connect until someone dropped off. She stated it depends upon the carrier and if they are at capacity. She stated that, currently demand is exceeding supply and enhancing current sites would be cheaper, but currently they lack that technology.

Chief Bishop commented about the potential problem with the use of cell phones during a disaster, such as an earthquake. He stated that emergency personnel could be dropped and, currently, must carry a special card with them to avoid it. He stated that because of this, the use of cell phones is a major problem throughout the state when dealing with disaster preparedness.

Chairman Hernandez requested to know if there had been any complaints from residents in cities who allow a fifty (50)-foot setback in residential areas.

Ms. Norine responded that they had not received any complaints.

Commissioner Kallen asked about the possibility of existing towers adding height for co-location.

Ms. Norine stated that was possible if the existing tower was structurally manufactured to handle co-locators. She added that some "Preferred Locations" are not necessarily where the tower needs to be sited.

Ms. Miller stated there are provisions in the Code that allow additional height for towers that provide co-location. This increase is subject to plan check and they can go as high as 88 feet.

Suggested modifications by staff:

1. Modification to Section 9.77.130B.1 with respect to adding additional language that requires the propagation map to include a statement as to what parameters were used in preparation of the propagation map and to provide evidence that co-locating is impractical.

The Commission agreed that this should be reviewed on a case-by-case basis due to aesthetics. The Commission also agreed that "Preferred Locations", when meeting all standards and require no deviations, could be approved administratively.

2. Table 9.77.130-A. The suggested modification is to reduce the separation requirements to a residential use or land use district from 1,000 feet to 500 feet. No change is suggested that enables the separation requirement to be reduced by fifty (50%) percent for facilities in a "Preferred Location".

The Commission agreed to leave the separation at 1,000 feet and review projects on a case-by-case basis and possibly at that time, if warranted, reduce the separation distance.

3. Require a four (4)-foot landscape buffer/screening around the facility compound regardless of adjacent use or land use district.

The Commission was in agreement with this modification.

4. Section 9.77.180 "Preferred Locations." The suggested modifications would reduce the acreage requirement for a church site from five (5) to three (3) acres and would eliminate the acreage requirement for industrial sites.

The Commission gave its consensus on these modifications.

The Commission discussed encouraging co-location by raising the height of the existing towers. The Commission also directed staff to modify the ordinance to allow an additional ten (10) feet of height for architectural purposes.

Ms. Reynolds stated that staff would make revisions and bring the item back before the Commission at the meeting of December 3, 2008.

ADJOURNMENT

Chairman Hernandez, with the consensus of the Commission, adjourned the workshop at 7:55 p.m.

Respectfully Submitted by:

Patty Hevle
Planning Commission Secretary

Approved by:

David Hernandez, Chairman