

**TOWN OF  
APPLE VALLEY, CALIFORNIA**

**AGENDA MATTER**

**Subject Item:**

**ORDINANCES AND RESOLUTION TO SET ASIDE AND REPEAL APPROVALS RELATED TO THE MANSION PROJECT AND THE ASSOCIATED MITIGATED NEGATIVE DECLARATION**

**Summary Statement:**

At its meeting on October 23, 2007, the Town Council adopted two ordinances (Nos. 364 and 365) approving various aspects of the Mansion Project ("Project") generally located on the southwest corner of Del Oro Road and Deep Creek Road, Section 7, Township 4 North, Range 3 West of San Bernardino Meridian; APN's 0434-201-08, -09, and -10. Additionally, at its October 23, 2007 meeting, the Town Council adopted Resolution No. 2007-48, also related to approving aspects of the Project. Since the adoption of these ordinances and resolution, a court order has made it necessary to set aside the mitigated negative declaration for the Project and the approvals granted by the Town of Apple Valley ("Town") in relation to the Project.

**Discussion:**

The Project at issue is a senior congregate living facility with a maximum of 340 residential units, including 240 independent residential units, fifty-six (56) villas, thirty-seven (37) assisted living units and sixteen (16) skilled nursing beds. The Project site will also include a two (2)-story main building that serves as the administration, entry and dining hall facility; gardens and courtyards; a service and maintenance building; and a maximum of 574 parking spaces. Pursuant to the California Environmental Quality Act ("CEQA"), the Town undertook environmental review of the Project and prepared a mitigated negative declaration.

At its October 23, 2007 public meeting, the Town considered and approved two separate ordinances related to the Project. Ordinance No. 364 amended the official zoning map by changing the zoning designation of the Project site from Residential Agricultural (R-A) zone to Specific Plan (S-P) zone to account for the Project.

(Continued on next page)

**Recommended Action:**

Introduce and adopt Ordinance Nos. 394 and 395 and adopt Resolution No. 2009-03.

**Proposed by:** John E. Brown, Town Attorney

**Item Number** \_\_\_\_\_

**Town Manager Approval:** \_\_\_\_\_

**Budget Item**  Yes  No

Ordinance No. 365 adopted the mitigated negative declaration for the Project and also adopted Specific Plan No. 2007-002 to allow for the Project. At the October 23, 2007 meeting, the Town also considered Resolution No. 2007-48, which pertained to several General Plan amendments, all of which were approved. Among those General Plan amendments was Amendment No. 2007-005, which related to the Project.

On November 26, 2007, Deep Creek Agricultural Association (“Association”) filed a Petition for Writ of Mandate, challenging the Project on CEQA grounds. On December 3, 2008, the Court entered Judgment in favor of the Petitioners and ordered the Town to set aside all Project approvals within ninety days.

In order to fully comply with the Court’s ruling, two ordinances and one resolution have been drafted repealing the Project approvals, including the adoption of the mitigated negative declaration. Each ordinance and resolution that was approved in relation to the Project will be repealed by a corresponding ordinance or resolution that addresses the specific action taken in each ordinance or resolution.

**Fiscal Impact:**

There is no fiscal impact associated with approving the ordinances and resolution repealing and setting aside all approvals related to the Project.

**Recommendation:**

It is recommended that the Town Council introduce and adopt the attached two ordinances and one resolution in order to repeal all approvals related to the Mansion Project. The ordinances and resolution are as follows:

- Ordinance No. 394, Entitled “An Ordinance Of The Town Council Of The Town Of Apple Valley, California, Repealing Ordinance No. 364, Which Adopted Zone Change No. 2007-003, Which Changed The Designation From Residential Agriculture (R-A) Zone To Specific Plan (S-P) Zone Of Three (3) Parcels Totaling Forty (40)-Acres Generally Located At The Southwest Corner Of Del Oro Road And Deep Creek Road.”
- Ordinance No. 395, Entitled “An Ordinance Of The Town Council Of The Town Of Apple Valley, California, Repealing Ordinance No. 365 And Repealing The Adoption Of A Mitigated Negative Declaration And Specific Plan Amendment No. 2007-002, Which Concerned A Senior Congregate Living Facility (“The Mansion”) Generally Located At The Southwest Corner Of Del Oro Road And Deep Creek Road.”
- Resolution No. 2009-03, Entitled, “A Resolution Of The Town Council Of The Town Of Apple Valley, California, Repealing Portions Of Resolution No. 2007-48 Concerning General Plan Amendment No. 2007-005, Which Concerns An Amendment To The Land Use Designation For The Forty (40) Acres Generally Located At The Southwest Corner Of Del Oro Road And Deep Creek Road. “

**Attachments:**

- Ordinance No. 394
- Ordinance No. 395
- Resolution No. 2009-03

**ORDINANCE NO. 394**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, REPEALING ORDINANCE NO. 364, WHICH ADOPTED ZONE CHANGE NO. 2007-003, WHICH CHANGED THE DESIGNATION FROM RESIDENTIAL AGRICULTURE (R-A) ZONE TO SPECIFIC PLAN (S-P) ZONE OF THREE (3) PARCELS TOTALING FORTY (40)-ACRES GENERALLY LOCATED AT THE SOUTHWEST CORNER OF DEL ORO ROAD AND DEEP CREEK ROAD.**

**WHEREAS**, on October 23, 2007, the Town Council of the Town of Apple Valley ("Town Council") adopted Ordinance No. 364, which changed the zoning designation for three (3) parcels from residential agriculture (R-A) Zone to Specific Plan (S-P) Zone of forty (40) acres generally located at the southwest corner of Del Oro Road and Deep Creek Road, Section 7, Township 4 North, Range 3 West of San Bernardino Meridian (APNs 0434-201-08, -09, and -10), to accommodate a senior congregate living facility; and

**WHEREAS**, on October 23, 2007, the Town Council adopted Ordinance No. 365 adopting a Mitigated Negative Declaration and Specific Plan No. 2007-002, to allow a senior congregate living facility with a maximum of 340 residential units, including 240 independent residential units, fifty-six (56) villas, thirty-seven (37) assisted living units and sixteen (16) skilled nursing beds. The Specific Plan also included a two story main building that serves as the administration, entry and dining facility; gardens and courtyards; a service and maintenance building; and a maximum of 574 parking spaces ("Mansion Project"). The site considered for the Mansion Project included three (3) parcels totaling forty (40) acres generally located at the southwest corner of Del Oro Road and Deep Creek Road, Township 4 North, Range 3 West of San Bernardino Meridian (APNs 0434-201-08, -09, and -10); and

**WHEREAS**, on October 23, 2007, the Town Council adopted Resolution No. 2007-48, which, among other actions, adopted General Plan Amendment No. 2007-005 pertaining to amending the General Plan Land Use designation of the approximately forty (40) acres located at the corner of Del Oro Road and Deep Creek Road, Township 4 North, Range 3 West of San Bernardino Meridian (APNs 0434-201-08, -09, and -10) from Residential Low Density (R-LD) to Specific Plan (SP), in relation to the approval of the Mansion Project; and

**WHEREAS**, on November 26, 2007, Deep Creek Agricultural Association filed a Petition for Writ of Mandate and Complaint for Declaratory Relief in the San Bernardino Superior Court (Case No. CIVSS709146) challenging the Mansion Project; and

**WHEREAS**, on December 3, 2008, after full briefing and hearing, the Court entered Judgment for the Petitioners, in which the Court granted the Petition for Writ of Mandate and ordered the Town to set aside and void all approvals granted for the Mansion Project; and

**WHEREAS**, on December 8, 2008, the Court issued a Peremptory Writ of Mandate stating that not more than ninety (90) days after service of the Writ, the Town must file an initial return to peremptory writ showing that it has complied with the order to set aside all project approvals related to the Mansion Project; and

**WHEREAS**, the Town desires and intends to comply with the Peremptory Writ of Mandate.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY DOES ORDAIN AS FOLLOWS:**

SECTION 1. The Town Council hereby specifically finds that all of the facts set forth in the recitals of this Ordinance are true and correct.

SECTION 2. Pursuant to Court Order, the Town Council hereby repeals, vacates and sets aside Ordinance 364 in its entirety.

Passed, approved and adopted this \_\_\_\_ day of February, 2009.

\_\_\_\_\_  
Honorable Richard Roelle, Mayor

ATTEST:

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Ms. La Vonda M. Pearson, Town Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

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Mr. John E. Brown, Town Attorney

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Mr. Frank Robinson, Town Manager

## ORDINANCE NO. 395

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, REPEALING ORDINANCE NO. 365 AND REPEALING THE ADOPTION OF A MITIGATED NEGATIVE DECLARATION AND SPECIFIC PLAN AMENDMENT NO. 2007-002, WHICH CONCERNED A SENIOR CONGREGATE LIVING FACILITY (“THE MANSION”) GENERALLY LOCATED AT THE SOUTHWEST CORNER OF DEL ORO ROAD AND DEEP CREEK ROAD.**

**WHEREAS**, on October 23, 2007, the Town Council of the Town of Apple Valley (“Town Council”) adopted Ordinance No. 364, which changed the zoning designation for three (3) parcels from residential agriculture (R-A) Zone to Specific Plan (S-P) Zone of forty (40) acres generally located at the southwest corner of Del Oro Road and Deep Creek Road, Section 7, Township 4 North, Range 3 West of San Bernardino Meridian (APNs 0434-201-08, -09, and -10), to accommodate a senior congregate living facility; and

**WHEREAS**, on October 23, 2007, the Town Council adopted Ordinance No. 365 adopting a Mitigated Negative Declaration and Specific Plan No. 2007-002, to allow a senior congregate living facility with a maximum of 340 residential units, including 240 independent residential units, fifty-six (56) villas, thirty-seven (37) assisted living units and sixteen (16) skilled nursing beds. The Specific Plan also included a two story main building that serves as the administration, entry and dining facility; gardens and courtyards; a service and maintenance building; and a maximum of 574 parking spaces (the “Mansion Project”). The site considered for the Mansion Project included three (3) parcels totaling forty (40) acres generally located at the southwest corner of Del Oro Road and Deep Creek Road, Township 4 North, Range 3 West of San Bernardino Meridian (APNs 0434-201-08, -09, and -10); and

**WHEREAS**, on October 23, 2007, the Town Council adopted Resolution No. 2007-48, which, among other actions, adopted General Plan Amendment No. 2007-005 pertaining to amending the General Plan Land Use designation of the approximately forty (40) acres located at the corner of Del Oro Road and Deep Creek Road, Township 4 North, Range 3 West of San Bernardino Meridian (APNs 0434-201-08, -09, and -10) from Residential Low Density (R-LD) to Specific Plan (SP), in relation to the approval of the Mansion Project; and

**WHEREAS**, on November 26, 2007, Deep Creek Agricultural Association filed a Petition for Writ of Mandate and Complaint for Declaratory Relief in the San Bernardino Superior Court (Case No. CIVSS709146) challenging the Mansion Project; and

**WHEREAS**, on December 3, 2008, after full briefing and hearing, the Court entered Judgment for the Petitioners, in which the Court granted the Petition for Writ of Mandate and ordered the Town to set aside and void all approvals granted for the Mansion project; and

**WHEREAS**, on December 8, 2008, the Court issued a Peremptory Writ of Mandate stating that not more than ninety (90) days after service of the Writ, the Town must file an initial return to peremptory writ showing that it has complied with the order to set aside all project approvals related to the Mansion Project; and

**WHEREAS**, the Town desires and intends to comply with the Peremptory Writ of Mandate.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY DOES ORDAIN AS FOLLOWS:**

SECTION 1. The Town Council hereby specifically finds that all of the facts set forth in the recitals of this Ordinance are true and correct.

SECTION 2. Pursuant to Court Order, the Town Council hereby repeals, vacates and sets aside Ordinance 365 in its entirety.

Passed, approved and adopted this \_\_\_\_ day of February, 2009.

\_\_\_\_\_  
Honorable Richard Roelle, Mayor

ATTEST:

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Ms. La Vonda M. Pearson, Town Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

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Mr. John E. Brown, Town Attorney

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Mr. Frank Robinson, Town Manager

## RESOLUTION NO. 2009-03

### A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, REPEALING PORTIONS OF RESOLUTION NO. 2007-48 CONCERNING GENERAL PLAN AMENDMENT NO. 2007-005, WHICH CONCERNS AN AMENDMENT TO THE LAND USE DESIGNATION FOR THE FORTY (40) ACRES GENERALLY LOCATED AT THE SOUTHWEST CORNER OF DEL ORO ROAD AND DEEP CREEK ROAD.

**WHEREAS**, on October 23, 2007, the Town Council adopted Ordinance No. 365 adopting a Mitigated Negative Declaration and Specific Plan No. 2007-002, to allow a senior congregate living facility with a maximum of 340 residential units, including 240 independent residential units, fifty-six (56) villas, thirty-seven (37) assisted living units and sixteen (16) skilled nursing beds. The Specific Plan also included a two story main building that serves as the administration, entry and dining facility; gardens and courtyards; a service and maintenance building; and a maximum of 574 parking spaces (the "Mansion Project"). The site considered for the Mansion Project included three (3) parcels totaling forty (40) acres generally located at the southwest corner of Del Oro Road and Deep Creek Road, Township 4 North, Range 3 West of San Bernardino Meridian (APNs 0434-201-08, -09, and -10); and

**WHEREAS**, on October 23, 2007, the Town Council adopted Resolution No. 2007-48, which, among other actions, adopted General Plan Amendment No. 2007-005 pertaining to amending the General Plan Land Use designation of the approximately forty (40) acres located at the corner of Del Oro Road and Deep Creek Road, Township 4 North, Range 3 West of San Bernardino Meridian (APNs 0434-201-08, -09, and -10) from Residential Low Density (R-LD) to Specific Plan (SP), in relation to the approval of the Mansion Project; and

**WHEREAS**, on November 26, 2007, Deep Creek Agricultural Association filed a Petition for Writ of Mandate and Complaint for Declaratory Relief in the San Bernardino Superior Court (Case No. CIVSS709146) challenging the Mansion Project; and

**WHEREAS**, on December 3, 2008, after full briefing and hearing, the Court entered Judgment for the Petitioners, in which the Court granted the Petition for Writ of Mandate and ordered the Town to set aside and void all approvals granted for the Mansion project; and

**WHEREAS**, on December 8, 2008, the Court issued a Peremptory Writ of Mandate stating that not more than ninety (90) days after service of the Writ, the Town must file an initial return to peremptory writ showing that it has complied with the order to set aside all project approvals related to the Mansion Project; and

**WHEREAS**, the Town desires and intends to comply with the Peremptory Writ of Mandate.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY DOES RESOLVE AS FOLLOWS:**

SECTION 1. The Town Council hereby specifically finds that all of the facts set forth in the recitals of this Resolution are true and correct.

SECTION 2. Pursuant to Court Order, the Town Council hereby repeals, vacates and sets aside Resolution No. 2007-48 as it pertains to General Plan Amendment No. 2007-005. Specifically, the Town Council hereby repeals, vacates and sets aside clauses 5, 6, 9 and 11 of Resolution No. 2007-48 as they pertain to General Plan Amendment No. 2007-005 and Sections 1, 2, 4 and 7 of the operative part of Resolution No. 2007-48 as they pertain to General Plan Amendment No. 2007-005. All other sections and subparts of Resolution No. 2007-48 not related to General Plan Amendment No. 2007-005 remain in full force and effect.

Passed, approved and adopted this 10th day of February, 2009.

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Honorable Richard Roelle, Mayor

ATTEST:

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Ms. La Vonda M. Pearson, Town Clerk