

**TOWN OF
APPLE VALLEY, CALIFORNIA**

AGENDA MATTER

Subject Item:

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

Summary Statement:

At its February 10, 2009 meeting, the Town Council reviewed and introduced Ordinance Nos. 394 and 395 as they relate to repealing Ordinance Nos. 364 and 365, which changed the zoning designation for three (3) parcels from residential agriculture (R-A) Zone to Specific Plan (S-P) Zone, adopted a Specific Plan for "The Mansion" project and adopted a Mitigated Negative Declaration for the development of forty (40) acres to accommodate a senior congregate living facility generally located at the southwest corner of Del Oro Road and Deep Creek Road. As part of the requirements to adopt a new Ordinance, Ordinance Nos. 394 and 395 have been scheduled for adoption at the February 24, 2009 Town Council meeting.

Attachments:

Ordinance No. 394
Ordinance No. 395

Recommended Action:

Adopt Ordinance Nos. 394 and 395

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

Town Manager Approval: _____ **Budget Item** **Yes** **No**

Town Council Meeting: February 24, 2009

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 24th day of February, 2009.

Honorable Richard Roelle, Mayor

ATTEST:

Ms. La Vonda M. Pearson, Town Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Mr. John E. Brown, Town Attorney

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 24th day of February, 2009.

Honorable Richard Roelle, Mayor

ATTEST:

Ms. La Vonda M. Pearson, Town Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Mr. John E. Brown, Town Attorney

Mr. Frank Robinson, Town Manager