

**TOWN OF
APPLE VALLEY, CALIFORNIA**

AGENDA MATTER

Subject Item:

ADOPT ORDINANCE No. 413, AN AMENDMENT TO THE NORTH APPLE VALLEY INDUSTRIAL SPECIFIC PLAN ELIMINATING THE DESIGNATION OF NON-CONFORMING FOR THE USE OF EXPOSED METAL WITHIN THE NORTH APPLE VALLEY INDUSTRIAL SPECIFIC PLAN.

Summary Statement:

At its meeting of September 14, 2010, the Town Council reviewed and introduced Ordinance No. 413, amending the North Apple Valley Industrial Specific Plan (SP 2005-001 Amendment No. 4) as it relates to allowing exposed metal in the Specific Plan area with the approval of a Conditional Use Permit and removing the Non-Conforming status of the expansion of existing buildings with exposed metal. As part of the requirements to adopt a new Ordinance, Ordinance No. 413 has been scheduled for adoption at the September 28, 2010 Town Council meeting.

Recommended Action:

Adopt Ordinance No. 413

Proposed by: Planning Division

Item Number _____

Town Manager Approval: _____

Budget Item Yes No N/A

Town Council Meeting: September 28, 2010

ORDINANCE NO. 413

AN ORDINANCE OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL ADOPT SPECIFIC PLAN NO. 2005-001 AMENDMENT NO. 4 THE NORTH APPLE VALLEY INDUSTRIAL SPECIFIC PLAN BY AMENDING SECTION II "LAND USE" AND SECTION III "DEVELOPMENT STANDARDS AND GUIDELINES" AS THEY RELATE ALLOWING EXPOSED METAL IN THE SPECIFIC PLAN AREA WITH THE APPROVAL OF A CONDITIONAL USE PERMIT AND REMOVING HE NON-CONFORMING STATUS OF THE EXPANSION OF EXISTING BUILDINGS WITH EXPOSED METAL.

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

Section 1. Recitals.

(i) A Specific Plan of Land Use was adopted on October 10, 2006 by the Town Council on the recommendation of the Planning Commission for lands generally located east of Dale Evans Parkway, south of Quarry Road, west of Central Road and north of Waalew Road, known as the North Apple Valley Industrial Specific Plan; and

(ii) The North Apple Valley Industrial Specific Plan has been previously modified by the Town Council on the recommendation of the Planning Commission; and

(iii) Specific Plan No. 2005-001 Amendment No. 4 is consistent with the General Plan and Municipal Code of the Town of Apple Valley; and

(iv) Specific changes are proposed to the North Apple Valley Industrial Specific Plan by amending Section II "Land Use" and Section III "Development Standards and Guidelines" as they relate to exposed metal in the Specific Plan area with the approval of a Conditional Use Permit and removing the non-conforming status of the use of exposed metal on expansion of existing development.

(ix) On August 20, 2010, Specific Plan 2005-001 Amendment No. 4 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

(x) Based upon the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be seen with certainty that the Specific Plan Amendment will not have a direct, adverse impact upon the environment and, therefore, is EXEMPT from further environmental review; and

(xi) On August 4, 2010, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Specific Plan 2005-001 Amendment No. 4, receiving testimony from the public and adopted Planning Commission Resolution 2010-006; and

(xii) On September 14, 2010 the Town Council of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Specific Plan 2005-001 Amendment No. 4, receiving testimony from the public; and

(xii) Specific Plan 2005-001 Amendment No. 4 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 Specific Plan 2005-001 Amendment No. 4 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), it can be seen with certainty that the proposed Specific Plan 2005-001 Amendment No. 4 are not anticipated to have a direct, adverse impact upon the environment and, therefore, is EXEMPT from further environmental review.

Section 3. Amend the first subparagraph of paragraph No. 7 “Pre-Fabricated Structures/Metal Buildings” of subsection E “Land Use Regulations” of Section III “Development Standards and Guidelines” to read as follows:

Buildings with exposed metal are discouraged in the Specific Plan Area, with the exception of airplane hangers located on the airport property, in the Industrial-Airport District. Buildings proposing to use exposed metal shall require the approval of a Conditional Use Permit.

Section 4. Amend the third subparagraph of paragraph No. 4 “Existing Development” of subsection E “Special Provisions” of Section II “Land Use” of the North Apple Valley Industrial Specific Plan to read as follows:

Non-conforming commercial or industrial buildings and uses in the Specific Plan area existing as of the adoption of this Specific Plan may continue to operate, and are not required to conform to the provisions of this Specific Plan unless the building or use is abandoned for a period of 6 months. These buildings or uses may also be replaced if damaged by fire or act of God. Expansion of these buildings or uses will require the approval of a Conditional Use Permit. Buildings proposing to expand the existing use of, or replace, exposed metal, require the approval of a Conditional Use Permit. The use of exposed metal that has been approved with a Conditional Use Permit shall not be considered a non-conforming use.

Section 5. 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 6. 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 7. Effective Date. This Ordinance shall become effective thirty (30) days

after the date of its adoption.

Section 8. 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 28th day of September, 2010.

Honorable Peter Allan, Mayor

ATTEST:

Ms. La Vonda M-Pearson, Town Clerk

Approved as to form:

Approved as to content:

Mr. John Brown, Town Attorney

Mr. Frank Robinson, Town Manager