



TOWN OF APPLE VALLEY PLANNING COMMISSION

Staff Report

- AGENDA DATE:** January 5, 2011 (Continued from December 15, 2010)
- CASE NUMBER:** Tentative Parcel Map No. 18095, Development Permit No. 2010-009, Conditional Use Permit No. 2005-024, Special Use Permit No. 2005-015, Variance No. 2009-001 and Sign Program No. 2005-040
- APPLICANT:** Tait & Associates, representatives for Walmart
- PROPOSAL:**
- Tentative Parcel Map No. 18095: A request to subdivide thirty (30) acres into five (5) separate parcels ranging in size from 0.66 acres to 25.22 acres. The subdivision will facilitate the development of a proposed Walmart Super Center building and four (4) additional retail pads within the overall project.
- Development Permit No. 2010-009: The project requires approval of a Development Permit for the construction of a 227,034 square foot Walmart Super Center building that, in addition to groceries and general merchandise, will provide a complete garden center and a Tire-Lube Express automotive service center. The development also includes four (4) separate stand-alone buildings with an additional 19,000 square feet of commercial space. The 246,034 square foot commercial center will include paved parking, landscaping, fencing and lighting.
- Conditional Use Permit No. 2005-024: The project requires approval of a Conditional Use Permit to operate the Tire-Lube Express automotive service center and for outdoor display of seasonal merchandise in front of the Walmart Super Center building.
- Special Use Permit No. 2005-015: Three (3) of the proposed pad buildings are planned for drive-through uses. Drive-through facilities require the review and approval of a Special Use Permit.

Variance No. 2009-001: The variance is a request to construct a perimeter wall that will exceed the maximum allowable height of six (6) feet. The proposed screen/sound attenuation wall will consist of a ten (10)-foot high wall built upon on a two (2)-foot high berm along the northeast and southeast perimeter of the project site.

Sign Program No. 2005-040: A request for a master sign program to establish criteria for freestanding pylon, monument, building and other signage and to create a cohesive and attractive identity for the commercial center and individual tenants.

**ENVIRONMENTAL
DETERMINATION:**

The proposed project may have a significant effect on the environment; therefore, an Environmental Impact Report (EIR) has been prepared in compliance with the California Environmental Quality Act (CEQA) and State Guidelines for the Implementation of CEQA. The EIR has identified anticipated significant environmental effects of the project, which are related to Air Quality, Traffic, and Noise.

LOCATION:

The project site is generally located on the east side of Dale Evans Parkway, between Bass Hill Road and Thunderbird Road; APN 3112-251-24.

CASE PLANNER:

Mr. Douglas Fenn, Senior Planner

RECOMMENDATION:

Approval

Background

This item was continued from the December 15, 2010 Planning Commission meeting to allow the Planning Commission to review "revised" findings for the Draft Environmental Impact Report (E.I.R.) and Statement of Overriding Considerations. The revision to the findings are recommended from the Town Attorney's office.

SUMMARY

This is a request to approve a 246,034 square foot retail commercial center within the General Commercial (C-G) land use and zoning designation. This center includes a 227,034 square foot Walmart Super Center building and four (4) retail pads. Recommended Conditions have been provided that will reduce any impacts of this operation to a level of insignificance. Findings for the Variance request for the height of the wall on the north and east perimeters of the site can be made due to the change in topography and to protect the adjacent single-family neighborhood from excess noise related to commercial activity. A detailed architectural analysis has been provided for the proposed commercial center and its design compatibility with other commercial centers in the immediate vicinity. Details have also been provided that support the project's compliance with the General Plan and Development Code.

ENVIRONMENTAL ASSESSMENT:

The Town considered the project under the provisions and requirements of the California Environmental Quality Act (CEQA). An Initial Study was prepared, which determined that the proposed commercial center had the potential to significantly impact the environment. The Town's conclusion was that these impacts had to be addressed in an Environmental Impact Report (EIR). The EIR was prepared, and concluded that, although the project had the potential to significantly impact the environment, in most cases, these impacts could be mitigated and reduced to less than significant levels. In the case of Air Quality, Traffic and Noise, however, the impacts associated with the project cannot be reduced to less than significant levels. As required by CEQA, the Town must, therefore, consider whether the benefits of the project outweigh its potential impacts and, if so, adopt a Statement of Overriding Considerations for the project. A Statement of Overriding Considerations has been prepared and is contained within Planning Commission Resolution No. 2010-009.

RECOMMENDATION

Based upon the information contained within this report, and any input received from the public at the hearing, it is recommended that the Planning Commission move the following:

1. **Determine** that the proposed Tentative Parcel Map, Development Permit, Conditional Use Permit, Special Use Permit and Variance will not have a significant effect on the environment with adherence to the Conditions of Approval, which include adherence to the Mitigation measures included within the EIR recommended in this report.
2. **Adopt** Planning Commission Resolution No. 2010-009, including the Environmental Findings, Mitigation Monitoring Program, Statement of Overriding Considerations and certify the Environmental Impact Report (SCH # 2006041094) for Tentative Parcel Map No. 18095, Conditional Use Permit No. 2005-024, Special Use Permit No. 2005-015 Variance No. 2009-001 and Sign Program No. 2005-040.
3. **Determine** the proposed project could have the potential for adverse effects on wildlife resources and the applicant is responsible for the payment of Fish and Game fees at the time the Notice of Determination is filed with the County.
4. **Find** that the facts presented in the staff report support the required Findings for approval and adopt those Findings.
5. **Approve** Tentative Parcel Map No. 18095, Development Permit No. 2010-009, Conditional Use Permit No. 2005-024, Special Use Permit No. 2005-015, Variance No. 2009-001 and Sign Program No. 2005-040, subject to the attached Conditions of Approval.
6. **Direct** staff to file a Notice of Determination.

*Tentative Parcel Map No. 18095, Development Permit No. 2010-009, Conditional Use Permit No. 2005-024, Special Use Permit No. 2005-015, Variance No. 2009-001 and Sign Program No. 2005-040
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Attachments:

Revised Planning Commission Resolution No. 2010-009 – Certification of the Environmental Impact Report (SCH #2008091077) for the Overriding Considerations –

Planning Commission staff report from December 15, 2010 meeting.

PLANNING COMMISSION RESOLUTION NO. 2010-009

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA CERTIFYING THAT THE ENVIRONMENTAL IMPACT REPORT (SCH. #2006041094,) PREPARED FOR THE WALMART SUPER CENTER, WHICH INCLUDES ENTITLEMENT APPLICATIONS OF TENTATIVE PARCEL MAP NO. 18095, DEVELOPMENT PERMIT NO. 2010-009, CONDITIONAL USE PERMIT NO. 2005-024 SPECIAL USE PERMIT NO. 2005-015, VARIANCE NO. 2009-001 AND SIGN PROGRAM NO. 2005-040, IS ADEQUATE AND COMPLETE; MAKING ENVIRONMENTAL FINDINGS AND DETERMINATIONS, ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS, AND ADOPTING A MITIGATION MONITORING PROGRAM ,THE SITE IS APPROXIMATELY THIRTY (30) ACRES OF UNDEVELOPED LAND LOCATED APPROXIMATELY 150 FEET SOUTH OF THUNDERBIRD ROAD, ON THE EAST SIDE OF DALE EVANS PARKWAY; APN 3112-251-24

WHEREAS, the Town of Apple Valley General Plan was adopted by the Town Council on August 11, 2009; and

WHEREAS, Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley was adopted by the Town Council on April 27, 2010; and

WHEREAS, pursuant to section 21067 of the Public Resources Code, and section 15367 of the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.), the Town of Apple Valley ("Town") is the lead agency for the Project; and

WHEREAS, on October 15, 2010, Tentative Parcel Map No. 18095, Development Permit 2010-009, Conditional Use Permit No. 2005-024, Special Use Permit No. 2005-015 Variance No. 2009-001 and Sign Program No. 2005-040, were duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

WHEREAS, all potential significant adverse environmental impacts were sufficiently analyzed in the Draft EIR; and

WHEREAS, during the official public review period for the Draft EIR, the Town received no written comments; and

WHEREAS, the Town prepared the Final EIR; and

WHEREAS, as contained herein, the Town has endeavored in good faith to set forth the basis for its decision on the Project; and

WHEREAS, the Town satisfied all the requirements of CEQA, and the State CEQA Guidelines in the preparation of the Draft and Final EIR (collectively "EIR"), which is sufficiently detailed so that all of the potentially significant environmental effects of the Project, as well as feasible mitigation measures, have been adequately evaluated; and

WHEREAS, the EIR prepared in connection with the Project sufficiently analyzes the feasible mitigation measures necessary to avoid or substantially lessen the Project's potential environmental impacts in accordance with CEQA and the State CEQA Guidelines; and

WHEREAS, all of the findings and conclusions made by the Planning Commission pursuant to this Resolution are based upon substantial evidence in the entire record before the Commission, and are not based solely on the information provided in this Resolution; and

WHEREAS, environmental impacts, including those environmental impacts identified in the Final EIR as significant and unavoidable despite the imposition of feasible mitigation measures identified in the Final EIR and set forth herein, findings on project alternatives and a statement of overriding considerations are described in Exhibit A; and

WHEREAS, the Mitigation Monitoring Plan sets forth the mitigation measures to which the Town shall bind itself in connection with this Project and is attached hereto as Exhibit B; and

WHEREAS, prior to taking action, the Planning Commission has heard, been presented with, reviewed and considered all of the information and data in the administrative record, including the Final EIR, and all oral and written evidence presented to it during all meetings and hearings; and

WHEREAS, the Final EIR reflects the independent judgment of the Planning Commission and is deemed adequate for purposes of making decisions on the merits of the Project; and

WHEREAS, the Town has not received any comments or additional information that produced substantial new information requiring recirculation or additional environmental review under Public Resources Code sections 21166 and 21092.1 and State CEQA Guidelines section 15088.5; and

WHEREAS, based upon the State Guidelines to Implement the California Environmental Quality Act (CEQA), since the EIR and Findings show that the Tentative Parcel Map No. 18095, Development Permit No. 2010-009, Conditional Use Permit No. 2005-024, Special Use Permit No. 2005-015, Variance No. 2009-001 and Sign Program No. 2005-040 will have significant and unavoidable impacts upon the environment, the Planning Commission must adopt a Statement of Overriding Considerations; and

WHEREAS, on December 15, 2010 and January 5, 2011, the Planning Commission of the Town of Apple Valley opened and conducted a duly noticed and advertised public hearings on Tentative Parcel Map No. 18095, Development Permit No. 2010-009, Conditional Use Permit No. 2005-024, Special Use Permit No. 2005-015, Variance No. 2009-001 and Sign Program No. 2005-040; and

WHEREAS, proposed Tentative Parcel Map No. 18095, Development Permit No. 2010-009, Conditional Use Permit No. 2005-024, Special Use Permit No. 2005-015, Variance No. 2009-001 and Sign Program No. 2005-040, are consistent with Town of Apple Valley General Plan and Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley and will promote the health, safety and general welfare of the citizens of the Town of Apple Valley; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

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, finds and makes the following Findings and take the following actions:

Section 1. Certification of the EIR. The Planning Commission certifies that (1) the Final EIR has been completed in compliance with CEQA; (2) the Final EIR was presented to the Planning Commission of the Town of Apple Valley and the Planning Commission reviewed and considered the information contained in the Final EIR prior to approving the project; and (3) the Final EIR reflects the independent judgment and analysis of the Planning Commission.

Section 2. CEQA Findings and Statement of Overriding Considerations. The Planning Commission hereby adopts the CEQA findings and Statement of Overriding Considerations contained in Exhibit A pursuant to section 21081 of the Public Resources Code.

Section 3. Mitigation Monitoring Plan. The Planning Commission hereby adopts the Mitigation Monitoring Plan contained in Exhibit B pursuant to section 21081.6 of the Public Resources Code.

Section 4. General Plan Consistency. In consideration of the evidence received at the public hearing, and, among others, for the reasons discussed in the Land Use section of the EIR and discussed by the Commission at said hearing, finds that the Tentative Parcel Map No. 18095, Development Permit No. 2010-009, Conditional Use Permit No. 2005-024, Special Use Permit No. 2005-015, Variance No. 2009-001 and Sign Program No. 2005-040 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan. Based upon the facts presented within the staff analysis, public testimony and pursuant to Government Code Section 65863(b), the Planning Commission of the Town of Apple Valley, California, finds that the Tentative Parcel Map No. 18095, Development Permit No. 2010-009, Conditional Use Permit No. 2005-024, Special Use Permit No. 2005-015, Variance No. 2009-001 and Sign Program No. 2005-040 are consistent with the General Plan goals for a broader economic base for the Town.

Section 5. Project Approval. Based upon the entire record before the Planning Commission, including the above findings and all written evidence presented to the Town of Apple Valley, the Planning Commission hereby approves the Project.

Section 6. Custodian of Record. The documents and materials that constitute the record of proceedings on which this Resolution is based are located at the Town of apple Valley Development Services Building, 14975 Dale Evans Parkway, Apple Valley, California 92307. The custodian for these records is Lori Lamson, Assistant Community Development Director. This information is provided in compliance with Public Resources Code section 21081.6.

*Tentative Parcel Map No. 18095, Development Permit No. 2010-009, Conditional Use Permit No. 2005-024, Special Use Permit No. 2005-015, Variance No. 2009-001 and Sign Program No. 2005-040
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Section 7. Notice of Determination. A Notice of Determination shall be filed within five (5) working days of final Project approval.

Approved and Adopted by the Planning Commission of the Town of Apple Valley this 5th day of January, 2011.

Chairman

ATTEST:

I, Patty Hevle, Secretary to the Planning Commission of the Town of Apple Valley, California, do hereby certify that the foregoing resolution was duly and regularly adopted by the Planning Commission at a regular meeting thereof, held on December 15, day of 2010, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Patty Hevle, Planning Commission Secretary

ATTACHMENTS:

Exhibit A - CEQA Findings And Statement Of Overriding Considerations

Exhibit B – Mitigation Monitoring Plan by, Applied Planning, Inc.

EXHIBIT "A"

Facts, Findings and Statement of Overriding Considerations Regarding the Environmental Effects from Approval of the Apple Valley Shopping Center Project in the Town of Apple Valley, San Bernardino County, California (State Clearinghouse No. 2006041094)

I. INTRODUCTION

The Planning Commission (this "Commission") of the Town of Apple Valley (the "Town"), in approving the Apple Valley Shopping Center Project (the "Project"), which requires approval of a Tentative Parcel Map; a Variance for the proposed perimeter screen/sound attenuation walls; a Special Use Permit; and a Sign Program, makes the Findings described below and adopts the Statement of Overriding Considerations presented at the end of the Findings. The Environmental Impact Report was prepared by the Town acting as lead agency pursuant to the California Environmental Quality Act ("CEQA"). Hereafter, the Notice of Preparation, Notice of Availability, Notice of Completion, the Draft EIR (circulated from October 20 to December 3), Technical Studies attached as Appendices to the Draft EIR, the Final EIR, and the Mitigation Monitoring and Reporting Program will be referred to collectively herein as the "EIR". These Findings are based on the entire record before this Council, including the EIR. This Council adopts the facts and analyses in the EIR, which are summarized below for convenience. The omission of some detail or aspect of the EIR from these findings does not mean that it has been rejected by this Commission.

II. PROJECT SUMMARY

A. PROJECT DESCRIPTION

1. Site Location

The Project site is located within the central portion of the Town of Apple Valley, in San Bernardino County. (DEIR p. 1-2.) More specifically, the approximately 30.19-acre Project site is located north of Happy Trails Highway (SR-18), at the southeasterly corner of the intersection of Dale Evans Parkway and Thunderbird Road. (DEIR pp. 1-2 and 3-2.) Presently, the Project site has a General Plan Land Use Designation of General Commercial ("G-C") and is Zoned General Commercial (G-C). The site is currently undeveloped and vacant, and is located generally east/northeasterly of the existing Town Hall facilities complex. (DEIR p. 3-3.) The Newton T. Bass Apple Valley Library is located southwesterly of the subject site. The Town's Civic Center Park is located to the south, between the library and Town Hall. Single-family residential uses are located to the east and southeast of the site. Commercial uses exist or are proposed westerly of the Project site, across Dale Evans Parkway. (*Id.*)

2. Project Description

The Project will realize approximately 246,000 square feet of new retail/commercial uses within the approximately 30.19-acre Project site, apportioned into five commercial parcels. (DEIR p.

3-6.) The Project proposes construction on Project Parcel 1 of an up to approximately 227,034 square foot Walmart; 217,660 square foot building with a 9,374 square foot Walmart Outdoor Garden Center. (DEIR pp. 3-6, 3-9 and Table 3.5-1.) The Walmart will include all appurtenant structures and facilities for the sale of general merchandise, groceries and alcohol for off-site consumption, including without limitation a tire and lube facility, garden center, truck docks and loading facilities, outdoor sale facilities, outside container storage facilities, rooftop proprietary satellite communication facilities, and parking facilities. (DEIR 3-9.) The store may contain without limitation, an outdoor garden center, a pharmacy, a vision and hearing care center, medical clinic, a food service center, a photo studio, a photo finishing center, a banking center and an arcade. (*Id.*) The store may, among other things, carry pool chemicals, petroleum products, pesticides, paint products, and ammunition. (*Id.*) The store may also operate on a 24-hour basis. (*Id.*) Project Parcel 2 will include a retail building of approximately 11,000 square feet. (DEIR pp. 3-9, 3-10 and Table 3.5-1.) Project Parcel 3 will feature an approximately 3,000 square foot bank with drive-through. (*Id.*) Project Parcels 4 and 5 will include two fast food drive-through restaurants, at approximately 2,500 square feet each. (*Id.*)

3. Actions Covered by the EIR

The EIR will support the following discretionary approvals:

- Approval of a Conditional Use Permit for the proposed Walmart Tire & Lube Express and associated facilities;
- Approval of a Tentative Parcel Map;
- Approval of a Variance for proposed perimeter screen/sound attenuation walls (8 to 12 feet in height);
- Special Use Permit approval(s) for the Project's drive-through/drive up uses; and
- Sign Program Approval.

B. PROJECT GOALS AND OBJECTIVES

The Project goals and objectives include the following:

- To create a new mix of uses that capitalizes on the site's location proximate to surrounding commercial/retail facilities;
- To capitalize on the site's location adjacent to Dale Evans Parkway and proximate to State Route 18 (SR- 18), to take advantage of available infrastructure, and to maximize access opportunities for the convenience of patrons;
- To provide a retail development that meets the current unmet demand for goods and services from consumers residing in the trade area and future residential developments;
- To provide a commercial retail shopping center that serves the local market area and beyond, and to attract new customers and retailers into the Town of Apple Valley;
- To provide goods and services at a local site, thereby reducing the number of trips currently being made to shop for these same goods and services outside the Town of Apple Valley;
- To provide a convenient source of grocery and food items to serve

- the local community;
- To provide convenience-oriented retail sale of food, beverage, and related products and convenience-oriented services to the currently underserved area;
- To co-locate complementary banking and financial services within the Project site;
- Improve and maximize economic viability of the currently vacant and underutilized Project site and area through the establishment of a new commercial center;
- Maximize and broaden the Town's sales tax base by providing local and regional tax-generating uses and by increasing property tax revenues;
- Expand and provide new retail options, with updated, modern and energy efficient buildings, proximate to local consumers by providing daytime and nighttime shopping opportunities in a safe and secure environment;
- Create additional employment-generating opportunities for the citizens of Apple Valley and the surrounding communities; and
- Provide (where necessary) adequate infrastructure and public amenities. (DEIR pp. 3-4 and 3-5.)

III. ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION

The Town conducted an extensive review of this Project which included a Draft EIR and a Final EIR, including technical reports, along with a public review and comment period. The following is a summary of the Town's environmental review of this Project:

- On April 14, 2006 the Town circulated an Initial Study ("IS") and related EIR Notice of Preparation ("NOP") identifying the environmental issues to be analyzed in the Project's EIR to the State Clearinghouse, responsible agencies, and other interested parties. The IS, NOP and responses received pursuant to distribution of the IS/NOP are presented at EIR Appendix A. Based on the IS and responses to the NOP, the EIR focuses on the topics of: Land Use and Planning (including the potential for urban decay due to the Project's economic effects); Traffic and Circulation; Air Quality; Noise; Public Services and Utilities; Water Supply; Hydrology and Water Quality; Biological Resources; Cultural Resources; and Geology and Soils.
- DEIR review (circulated from October 20 to December 3). The Draft EIR Notice of Availability was published in the Apple Valley News on October 15, 2010. This notice, which included a brief description of the Project and its location, along with a summary of the significant effects discussed the Draft EIR, was also posted at City Hall on October 15, 2010.
- Planning Commission. A Public Hearing was scheduled for December 15, 2010, and continued to January 5, 2011. Notice of this meeting was posted at City Hall on October 15, 2010.

- Town Council. Because the Project does not involve a General Plan amendment, a hearing before the Town Council would be required only upon appeal of the Planning Commission's approval or denial of the Project. No Public Hearing before the Town Council is currently scheduled.

Notably, the Project is consistent with the Town's General Plan which was adopted on August 11, 2009, and for which an EIR was certified. Section 21083.3 of the Public Resources Code states: "If a development project is consistent with the general plan of a local agency and an environmental impact report was certified with respect to that general plan, the application of this division to the approval of that development project shall be limited to effects on the environment which are peculiar to the parcel or to the project and which were not addressed as significant effects in the prior environmental impact report, or which substantial new information shows will be more significant than described in the prior environmental impact report." The Project EIR, therefore, appropriately focuses its analysis on the effects on the environment that are specific to the Project and the Project site.

IV. GENERAL FINDING ON MITIGATION MEASURES

In preparing the Conditions of Approval for this Project, Town staff incorporated the mitigation measures recommended in the EIR as applicable to the Project. In the event that the Conditions of Approval do not use the exact wording of the mitigation measures recommended in the EIR, in each such instance, the adopted Conditions of Approval are intended to be identical or substantially similar to the recommended mitigation measures. Any minor revisions were made for the purpose of improving clarity or to better define the intended purpose.

Finding:

Unless specifically stated to the contrary in these findings, it is this Commission's intent to adopt all mitigation measures recommended by the EIR which are applicable to the Project. If a measure has, through error, been omitted from the Conditions of Approval or from these Findings, and that measure is not specifically reflected in these Findings, that measure shall be deemed to be adopted pursuant to this paragraph. In addition, unless specifically stated to the contrary in these Findings, all Conditions of Approval repeating or rewording mitigation measures recommended in the EIR are intended to be substantially similar to the mitigation measures recommended in the EIR and are found to be equally effective in avoiding or lessening the identified environmental impact. In each instance, the Conditions of Approval contain the final wording for the mitigation measures.

V. ENVIRONMENTAL IMPACTS AND FINDINGS

Town staff reports, the EIR, written and oral testimony at public meetings or hearings, these facts, findings and statement of overriding considerations, and other information in the administrative record, serve as the basis for the Town's environmental determination.

The detailed analysis of potentially significant environmental impacts and proposed mitigation measures for the Project is presented in Section 4.0 of the Draft EIR and the Project's Mitigation Monitoring Plan is provided in Section 4.0 of the Final EIR.

The EIR evaluated ten major environmental categories for potential impacts including: Land Use and Planning; Traffic and Circulation; Air Quality; Noise; Public Services and Utilities;

Water Supply; Hydrology and Water Quality; Biological Resources; Cultural Resources; and Geology and Soils. Both Project-specific and cumulative impacts were evaluated. Of these ten major environmental categories, this Commission concurs with the conclusions in the EIR that the issues and sub-issues discussed in subsections A and B below are either less than significant without mitigation or can be mitigated below a level of significance. For the remaining potential environmental impacts that cannot feasibly be mitigated below a level of significance discussed in subsection C, the Commission must evaluate the overriding considerations and Project benefits and balance them against the significant impacts of the proposed Project.

A. IMPACTS IDENTIFIED AS LESS THAN SIGNIFICANT REQUIRING NO MITIGATION

The following issues were found in the EIR as having no potential to cause significant impacts and therefore require no Project-specific mitigation. In the following presentation, each resource issue is identified and the potential for significant adverse environmental effects is discussed.

1. Land Use and Planning

a) Town of Apple Valley General Plan and Zoning Ordinance

Potential Significant Impact:

Implementation of the proposed Project could potentially conflict with an applicable land use plan, policy, or regulation of an agency with jurisdiction over the Project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.

Finding:

Potential impacts of the Project on Land Use and Planning are discussed in detail in Section 4.1 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to consistency with the General Plan and Zoning Ordinance and, therefore, no mitigation is required. (DEIR pp. 4.1-20 - 4.1-22.)

Facts in Support of the Finding:

The current General Plan Land Use designation of the Project site is General Commercial (“G-C”). The G-C General Plan Land Use designation is compatible with General Plan Land Use designations along Dale Evans Parkway, and allows the retail and commercial uses proposed by the Project. (DEIR p. 4.1-18.) Current zoning designation of the subject site is General Commercial (G-C). The G-C zoning designation is consistent with the site’s current G-C General Plan Land Use designation. Uses proposed by the Project are permitted under the proposed G-C General Plan Land Use and G-C zoning designations, or are allowed pursuant to the Town’s Conditional Use Permit (“CUP”) and Special Use Permit (“SUP”) processes. (DEIR p. 4.1-20.) The Project will be developed and operated consistent with applicable General Plan Policies and CUP/SUP requirements, and will comply with design and development standards articulated in the Town Development Code. (DEIR p. 4.1-20.) Accordingly, the Project’s potential to conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the Project adopted for the purpose of avoiding or mitigating an environmental effect is determined to be less than significant and no mitigation is

required.

b) Physical division of an established community

Potential Significant Impact:

Implementation of the proposed Project could potentially physically divide an established community.

Finding:

Potential impacts of the Project on Land Use and Planning are discussed in detail in Section 4.1 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to the physical division of an established community and, therefore, no mitigation is required. (DEIR pp. 4.1-22 to 4.1-24.)

Facts in Support of the Finding:

No established communities or other physical arrangements would be divided or otherwise adversely physically altered by the Project's proposed land uses, design features, or operations. No established communities exist on the Project site, and the Project does not propose elements or aspects that would physically divide an established community. (DEIR p. 4.1-22.) The Project site lies within a largely- commercial part of the Town, and the Project is consistent with the development standards and intent of the General Commercial General Plan designation and General Commercial Zoning designation. (DEIR p. 4.1-22 – 4.1-21.)

The property located west/southwesterly of the Project site is currently developed with Town Hall facilities (located approximately 650 feet from the Project site); and adjacent to the Project site, with park areas. (DEIR p. 4.1-22.) The Project provides for landscaping and edge treatments along its westerly/southwesterly boundaries acting to define and separate the Project site from adjacent Town Hall and park land uses. The Project also proposes compatible transitional landscaping elements between the Project site and westerly adjacent park areas, including a useable public space area. (*Id.*)

West of the Project site across Dale Evans Parkway, properties are developed with, or are approved for development of, commercial/retail uses similar to the Project, including the Apple Valley Commons Commercial Center. (*Id.*) East of the Apple Valley Commons is vacant land with a General Commercial General Plan Land Use designation. The uses and facilities proposed within the Project represent a compatible continuation of commercial development along the Dale Evans Parkway between SR- 18 to the south/southwest and Thunderbird Road to the north/northeast, and would not conflict with existing or proposed development along this segment of the Dale Evans Parkway frontage. (*Id.*) Moreover, perimeter landscaping elements and edge treatments act to screen and temper views of the developed site as seen from westerly adjacent park areas, as well from abutting Dale Evans Parkway to the north. (DEIR p. 4.1-23.) As such, the developed Project site would not be considered visually intrusive or divisive, nor out of context as seen from westerly and northerly vantages. (*Id.*)

Notwithstanding the above considerations, abutting properties to the south/southeast of the Project site are predominantly designated as, and developed with, single-family residential land uses. Development of the Project site will result in a substantive change in land use conditions when compared to the site's current vacant and undeveloped condition; however, views into the Project site as seen from adjacent residential areas are effectively blocked by the Project's proposed masonry noise attenuation/screening wall, to be constructed along the site's

boundaries that are common to residential properties. Conversely, views of residential areas as seen from the Project site are also effectively blocked. (*Id.*) Consistent with Town requirements, wall exterior treatments will also incorporate plane projections and/or recesses so as to preclude uninterrupted and/or blank walls. Landscaping adjacent to the wall exterior surfaces shall also be provided as required by the Town. (*Id.*) Additionally, the EIR explained how the Project is consistent with the provisions of the Town's Shopping Center Standards designed to provide for a proper transition from more sensitive land uses. (DEIR p. 4.1-11.)

As supported by the preceding discussion, the potential for the Project to result in or cause community division is less than significant and no mitigation is required. (DEIR p. 4.1-24.)

c) Urban Decay

Potential Significant Impact:

Implementation of the proposed Project could potentially result in adverse physical changes or impacts due to the Project's economic effects.

Finding:

Potential impacts of the Project on Land Use and Planning are discussed in detail in Section 4.1 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to adverse physical changes or due to the Project's economic effects and, therefore, no mitigation is required. (DEIR pp. 4.1-24 to 4.1-40.)

Facts in Support of the Finding:

A project may result in a significant physical change due to economic forces if it results in a condition commonly referred to as urban decay. A project may result in a significant urban decay impact if the project results in a diversion of sales from existing competitive retailers at such a magnitude that the project either independently, or in conjunction with other past, present, and reasonably foreseeable future projects, could substantively contribute to the downward spiral of retail store closures and long-term vacancies. (DEIR p. 4.1-24.)

To assess the Project's potential to result in adverse physical impacts on the environment by causing "urban decay" a Project-specific economic impact analysis was prepared. The economic impact analysis is entitled *Wal-Mart Store Economic Impact Analysis: New Wal-Mart Anchored Shopping Center, Apple Valley, California* (CBRE Consulting, Inc) May 2008, revised March 2009 ("Project EIA"). (DEIR pp. 4.1-24 and 4.1-25.)

The purpose of the Project EIA is to determine whether the Project, when considered in connection with past, present and future probable competitive retail projects, including those that are likely to include a Walmart as an anchor tenant, may result in a significant urban decay impact due to its secondary economic effects. (DEIR p. 4.1-25.) The Project EIA similarly analyzed the potential effects of the closure of the existing store. The Project EIA provides quantified data to determine whether there will be sufficient consumer demand within the Project's market area to support the Project's sales of apparel, general merchandise, groceries, home furnishings and appliances, and other retail merchandise, without negatively impacting the long-term market performance of existing retailers and/or supermarkets in the trade area. (*Id.*)

The Town of Apple Valley exhibited leakage across each of the major retail categories. (DEIR p. 4.1-27.) The Project EIA estimates that Primary Market Area ("PMA") residents will generate

90 percent of the sales at the Apple Valley Shopping Center. The remaining ten percent of revenues would be generated by consumers traveling from outside the PMA. (*Id.*)

The Project EIA estimates that the Project will result in annual sales of approximately 99.4 million dollars, 93.5 million of which is attributable to the Walmart store. Net sales will be approximately 55.7 million when considering relocation of sales from an existing Walmart that will be closed upon development of the Project. (DEIR p. 4.1-31.) Total net sales include sales of 34.3 million in the Food Stores category and 7.4 million in the General Merchandise category. (*Id.*) Based on the anticipated sales from the Project, compared to existing supply and demand within the PMA, the project could result in short term sales diversions of 26.4 million in the Food Stores category and 3.4 million in General Merchandise category. (DEIR p. 4.1-33.) Although the sales diversions could impact competing retailers, the forecasted growth in the PMA will mitigate the impacts future growth in demand and recapture of sales demand leakage will account for 40% of projected Project sales. (DEIR p. 4.1-32.)

The Project EIA demonstrates that urban decay is unlikely at any of the potentially competitive existing shopping centers or stores. (DEIR p. 4.1-39.) The Project EIR found that even if one or more anchor tenants close due to increased economic pressure, neither the center nor the area is anticipated to deteriorate to the point that significant urban decay impacts result from the Project. (*Id.*) The Project EIA's conclusion is based on consideration of current market conditions, including the effects of the recession, which are independent of the Project; findings regarding diverted sale related to the Project and cumulative retail developments; and the re-tenanting potential of the existing retail base as summarized in the EIR. (*Id.*) The Project EIA's findings conclude that while some existing stores may experience negative impacts following the addition of the Project and other cumulative retail projects, any store closures that may occur are likely to be re-tenanted or redeveloped within a reasonable timeframe. (*Id.*) Recent store closures and resulting vacancies, both in the PMA and in surrounding cities, are occurring independent of the Project's development, which is not expected to open until 2011 at the earliest. (*Id.*) Moreover, the Project EIA found that because a large amount of the retail space in the area is new, it should remain functionally competitive if there is a prolonged period of vacancy. (*Id.*) Notably, a vacancy, by itself, does not create an adverse environmental impact. Another possible outcome of retail store closures and prolonged vacancies is that existing property owners, or buyers, might decide to redevelop these spaces with other uses, thereby preventing physical deterioration and the threat of urban decay. (DEIR p. 4.1-40.)

Accordingly, the potential for the Project to contribute to individual adverse economic impacts is not considerable, and the potential for the individual economic effects of the Project to result in adverse physical changes or impacts due to the Project's economic effects is less than significant and no mitigation is required. (*Id.*)

d) Cumulative Impacts – General Plan and Zoning Considerations

Potential Significant Impact:

Implementation of the proposed Project could potentially contribute to potential cumulative land use impacts related to General Plan and Zoning consistency.

Finding:

Potential impacts of the Project on Land Use and Planning are discussed in detail in Section 4.1 of the Draft EIR. Furthermore, Section 5.1.1.1 of the Draft EIR assesses cumulative

impacts related to Land Use and Planning in particular. Based on the entire record before us, this Commission finds no significant impact related to General Plan and Zoning consistency and, therefore, no mitigation is required. (DEIR p. 5-9.)

Facts in Support of the Finding:

Uses proposed by the Project are permitted under the G-C General Plan Land Use and G-C zoning designations, or are allowed pursuant to the Town's Conditional Use Permit and Special Use Permit processes. (DEIR p. 5-5.) The Project land uses and proposed development are consistent with General Plan and zoning designations of the site. (*Id.*) The Project will be designed, developed, and operated consistent with General Plan Policies, and requirements and standards articulated in the Town Development Code. (*Id.*) It is assumed that other development proposals within the cumulative impact area will also request and process appropriate discretionary actions/permits where necessary; and that other development proposals will also comply with General Plan Policies and applicable provisions of the Town Development Code. (*Id.*) The Town recently comprehensively updated and amended its General Plan and zoning documents to reflect cumulative land use changes within the impact area. (*Id.*) Regional agencies employ development-specific information and General Plan/zoning information provided by the Town in developing regional land use plans and associated growth projections. In combination, these actions ensure that potential cumulative effects of evolving land use plans are appropriately addressed at local and regional levels. (*Id.*) Accordingly, the Project's contributions to potential cumulative land use impacts related to General Plan and zoning considerations is not considerable and the cumulative effects of the Project are determined to be less than significant. (DEIR p. 5-9.)

e) Cumulative Impacts – Economic Effects and Potential Urban Decay

Potential Significant Impact:

Implementation of the proposed Project could potentially contribute to cumulatively adverse economic impacts, and whether the Project's cumulative economic effects could result in adverse physical change/urban decay.

Finding:

Potential impacts of the Project on Land Use and Planning are discussed in detail in Section 4.1 of the Draft EIR. Furthermore, Section 5.1.1.1 of the Draft EIR assesses cumulative impacts related to economic effects and potential urban decay in particular. Based on the entire record before us, this Commission finds cumulative impacts related to economic effects and potential urban decay are less than significant and, therefore, no mitigation is required. (DEIR p. 5-9.)

Facts in Support of the Finding:

The Economic Impact Analysis ("EIA") and DEIR analyzed the potential for the Project to result in a cumulatively significant urban decay impact when considered in connection with past, present and reasonably foreseeable future projects. The identified cumulative retail projects would add some 826,000 square feet of commercial uses to the cumulative impact area, assuming all are approved and built according to their current plans. (DEIR p. 507.) The Project EIA found that potential sales diversions, focused primarily in the category of food stores, would likely result if the five new major retail developments are fully build and operational by 2011. (DEIR p. 5-8.) New demand from household growth and recaptured leakage in certain retail categories would buffer existing retailers to some extent, though potential sales

diversions of approximately \$135.6 million could result. (*Id.*) The Project EIA notes that the Town of Apple Valley remains an emerging retail hub with strong demographics. (DEIR p. 5-9.) The quality of most store space remains strong, either because the related shopping centers are new, or because retailers and landlords have invested in remodeling older stores to remain competitive. For instance, major retailers, including Lowe's, Best Buy, Winco Foods and Bed Bath and Beyond have opened new stores in the past few years further indicating the strong retail market in the area. While some existing stores may experience negative impacts following the addition of the Project and other cumulative retail development, the cumulative urban decay impact of the Project is less than significant. First Field research conducted as part of the EIA preparation process did not identify any existing conditions of urban decay or existing long-term vacancies. The Town of Apple Valley remains an emerging retail hub and the quality of most store space remains strong. Even if the cumulative competitive effects of the Project are sufficient enough to result in store closures, they will not be significant enough to result in a cumulatively significant urban decay impact. (*Id.*)

As supported by the preceding discussions, the Project's potential contribution to cumulatively adverse economic impacts is not considerable, and the potential for the Project's cumulative economic effects to result in adverse physical change/urban decay is determined to be less than significant. (*Id.*)

2. Traffic and Circulation

a) Design Features, Access and Internal Circulation

Potential Significant Impact:

Implementation of the proposed Project could potentially substantially increase hazards to a design feature (e.g., sharp curves or dangerous intersections) or compatible uses (e.g., farm equipment); inadequate vehicular access and internal circulation.

Finding:

Potential impacts of the Project on Traffic and Circulation are discussed in detail in Section 4.2 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to increased hazards to a design feature, inadequate site access, or internal circulation and, therefore, no mitigation is required. (DEIR pp. 4.2-54 to 4.2-57.)

Facts in Support of the Finding:

The Project will take access from two signalized driveways on Dale Evans Parkway. (DEIR p. 4.2-54.) The Project Applicant will improve the east side of Dale Evans Parkway to its ultimate Major Highway configuration. (*Id.*) In addition, right-turn lanes will be provided in the northbound directions at the southerly and northerly driveways. (*Id.*) Further, the following design elements and driveway configurations will be implemented as part of the Project:

1) Southerly Project Driveway: This driveway will be aligned with the existing driveway to the Lowe's development on the west side of the street, and will provide fully directional access to both developments. It will be signalized and will provide two lanes inbound and two lanes outbound. The following lane configurations are recommended to accommodate the Project and background traffic.

- Northbound (on Dale Evans Parkway) – one left-turn, two through lanes and one right-turn lane.

- Southbound (on Dale Evans Parkway) – one left-turn, one through and one optional through-or-right-turn lane.
- Westbound (Project driveway) – one left-turn, one optional through-or-right turn lane.
- Eastbound (Lowe's driveway) – one left-turn, one optional through-or-right turn lane. (DEIR pp. 4.2-54 and 4.2-55.)

2) Northerly Project Driveway: This driveway is located between the Project's Parcel 1 and Parcel 4, and will provide access for service vehicles leaving the Project site. This driveway should have one lane inbound and two lanes outbound. The following lane configurations are recommended to accommodate the Project and background traffic:

- Northbound (on Dale Evans Parkway) – two through lanes and one right-turn lane.
- Southbound (on Dale Evans Parkway) – one left-turn, one through and one optional through-or-right-turn lane.
- Westbound (Project Driveway) – one left-turn and one right-turn lane. The internal circulator road running parallel to Dale Evans Parkway serving Parcel 1 should be redesigned to provide ingress access only from the signalized driveway. (DEIR pp. 4.2-55 and 4.2-56.)

3) General On-Site Circulation:

An analysis of the on-site circulation was conducted as part of the Traffic Impact Analysis. Truck turning templates were applied to the driveways that will be used by large delivery trucks. (DEIR p. 4.2-56.) The truck turning templates indicate that the current design of these driveways and the internal circulation are adequate to accommodate delivery vehicles. (*Id.*) The surrounding roadway network is adequately designed to accommodate large vehicles. (*Id.*) The Project site will use Dale Evans Parkway and Happy Trails Highway (SR-18). The Apple Valley General Plan Circulation Element designates Dale Evans Parkway as a Local Truck Route and Happy Trails Highway as a Regional Truck Route. (*Id.*) These roadways were designed to accommodate delivery trucks and their associated truck turning movements. (*Id.*) Based on the incorporation of the above- described recommendations and the design and capacity of Dale Evans Parkway and Happy Trails Highway (SR- 18), potential impacts in regard to increased hazards to a design feature, inadequate site access, or internal circulation are less than significant and no mitigation is required. (DEIR p. 4.2-56.)

b) Inadequate Parking Capacity

Potential Significant Impact:

Implementation of the Project could potentially result in inadequate parking capacity.

Finding:

Potential impacts of the Project on Traffic and Circulation are discussed in detail in Section 4.2 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to inadequate parking capacity and, therefore, no mitigation is required. (DEIR p. 4.2-754.)

Facts in Support of the Finding:

On-site parking will be provided pursuant to the Town Development Code, or as otherwise specified by the Town of Apple Valley. Based on the size of the Project, a minimum of one parking space for every 250 square feet of gross floor area is required by the Development

Code, or a total of approximately 985 required spaces. (DEIR p. 4.2-57.) The Project site plan concept indicates that a total of 1,182 parking spaces would be provided, including the required number of spaces designated for handicap-accessible parking. (*Id.*) This exceeds the Town's minimum parking requirement by approximately 97 spaces. Accordingly, potential impacts to on-site parking are considered less than significant and no mitigation is required. (*Id.*)

c) Cumulative Impacts – Parking and Access Considerations

Potential Significant Impact:

Implementation of the proposed Project could potentially result in cumulative impacts in regard to parking and access.

Finding:

Potential impacts of the Project on Traffic and Circulation are discussed in detail in Section 4.2 of the Draft EIR. In addition, Section 5.1.1.2 of the Draft EIR discusses cumulative Traffic and Circulation Impacts in particular. Based on the entire record before us, this Commission finds the Project's potential contribution to cumulative impacts related to parking and access is not considerable, and therefore, the cumulative effects of the Project are determined to be less than significant. (DEIR pp. 5-14 to 5-15.)

Facts in Support of the Finding:

Parking for the Project will be provided in accordance with the Town of Apple Valley Development Code. (DEIR p. 5-14.) No additional off-site or street parking is proposed, nor is such parking required. (*Id.*) Adequate and appropriately configured parking within the Project site will act to preclude or minimize the potential for overflow parking on to off-site locations and also facilitates efficient and safe internal circulation. (*Id.*) Additionally, adequate and appropriate driveway and access improvements will be implemented by the Project. (*Id.*) Town design review processes, and any resultant modifications incorporated in the Final Site Plan, will ensure that potential parking, site access, and internal circulation impacts are less than significant. (*Id.*) It is further assumed that other development projects within the cumulative impact area will design and construct adequate and appropriate parking areas, site access, and internal circulation systems, thereby avoiding or reducing the extent and scope of potential parking, access and internal circulation impacts. (DEIR pp. 5-14 and 5-15.) Accordingly, the Project's potential contribution to cumulative impacts in regard to parking and access is not considerable, and the cumulative effects of the Project are determined to be less than significant. (DEIR p. 5-15.)

3. Air Quality

a) Global Climate Change

Potential Significant Impact:

Implementation of the proposed Project could potentially contribute to a significant global climate change impact by conflicting with greenhouse gas emission reduction strategies.

Finding:

Potential impacts of the Project on Air Quality are discussed in detail in Section 4.3 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to global climate change and, therefore, no mitigation is required. (DEIR pp. 4.3-53 to 4.3-72.)

Facts in Support of the Finding:

The DEIR contained a comprehensive evaluation of potential for the Project to result in a significant global climate change impact due to increase in greenhouse gas (“GHG”) emissions resulting from construction and operation of the proposed Project. In analyzing the Project’s potential to result in a significant global climate change impact, the DEIR considered the following factors: 1) The extent to which the Project may increase or reduce GHG emissions as compared to the existing environmental setting, 2) whether the Project GHG emissions exceeds a threshold of significance that the lead agency determines applies to the Project, and 3) the extent to which the Project complies with regulations or requirements adopted to implement a statewide, regional or local plan for the reduction or mitigation of GHG emissions. The factors considered in the analysis are consistent with the analytical methodology included in CEQA Guideline Section 15064.4 adopted by the natural resources agency as directed by SB 97. The Commission finds that neither the Town nor the Mojave Desert Air Quality Management District has adopted a threshold of significance for greenhouse gas emissions. The Commission further finds that thresholds of significance for greenhouse gas emissions developed by other agencies do not apply to the Project because such thresholds are tailored to other geographic regions and project types. Consistent with section 15064.4 of the State CEQA Guidelines, the Town’s analysis of greenhouse gas emissions involves the analysis of non-numeric factors related to greenhouse gas emissions. Nevertheless, the global climate change analysis included a comprehensive inventory of projected GHG emissions resulting from development and implementation of the Project. The analysis concluded that the Project will result in approximately 18,963 tons of carbon dioxide equivalent emissions. (DEIR p. 4.3-59.) Of these emissions, approximately 89% are generated by motor vehicle emissions. (*Id.*) The DEIR concluded that the level of GHG emissions generated by the proposed Project would not result in a significant global climate change impact. Initially, the proposed Project is consistent with the Town’s recently adopted Climate Action Plan. Project anchor, Walmart, is designed to exceed California Title 24 Energy Building Energy Efficiency Standards by approximately 22%. (DEIR p. 4.3-67.) In addition, many of the building design features will be implemented as part of the Walmart development are consistent with proposed GHG emission reduction measures/strategies suggested by different groups, including California Air Resources Board, California Attorney General’s Office, and the California Air Pollution Control Officers Association. (DEIR p. 4.3-68 through 4.3-71.) Additionally, the raw GHG emissions included in the Project emissions inventory will likely, drastically overstate emissions will result from the Project. The proposed Project constitutes development within an established community and does not open up any geographical area for development such that it would draw mostly new trips or substantially lengthen existing vehicular trips. (DEIR p. 4.3-73.) The Project will be located directly adjacent to the Apple Valley commons retail development, as well as other existing residential and institutional land uses. Moreover, the Project involves the replacement of the existing Walmart store in Apple Valley, thereby resulting in a mere redistribution of existing vehicular trips rather than creation of entirely new traffic trips. Based on the foregoing, the Project is determined to have a less than significant global climate change impact. Notably, the analysis in the EIR and its appendices regarding climate change satisfy the requirements for analysis of energy impacts as provided in Appendix F of the State CEQA Guidelines.

b) Consistency with an Applicable Air Quality Plan

Potential Significant Impact:

Implementation of the proposed Project could potentially conflict with, or obstruct implementation of, applicable air quality plan.

Finding:

Potential impacts of the Project on Air Quality are discussed in detail in Section 4.3 of the Draft EIR. Based on the entire record before us, this Commission finds impacts related to consistency with an applicable Air Quality Plan are less than significant and, therefore, no mitigation is required. (DEIR pp. 4.3-72 and 4.3- 73.)

Facts in Support of the Finding:

The Federal Particulate Matter Attainment Plan and Ozone Attainment Plan for the Mojave Desert Air Quality Management District (“MDAQMD”) establish a comprehensive set of programs that will lead the Mojave Desert Air Basin (“MDAB”) into compliance with federal and State air quality standards. (DEIR p. 4.3-72.) Conformance with these attainment plans is determined by demonstrating 1) compliance with local land use plans and/or population projections; 2) compliance with all MDAQMD Rules and Regulations; and 3) that a project will not increase the frequency or severity of a violation in the federal or State ambient air quality standards. (DEIR p. 4.3-76.) The Project complies with the first criterion because it would not involve growth-inducing impacts or cause an exceedance of established population or growth projections. (*Id.*) The Project complies with the second criterion because it will comply with all MDAQMD Rules and Regulations. (*Id.*) The Project complies with the third criterion because the Project would not result in a violation or increase in the severity of an existing violation of the ambient air quality standards. (*Id.*) Accordingly, the Project is consistent with the goals of the MDAQMD’s Air Quality Management Plans, and in this respect presents a less than significant impact and no mitigation is required. (*Id.*) Therefore, the Project would not conflict with or obstruct implementation of an applicable Air Quality Plan.

c) Exposure of Sensitive Receptors

Potential Significant Impact:

Implementation of the proposed Project could potentially result in exposure of sensitive receptors to substantial pollution concentrations.

Finding:

Potential impacts of the Project on Air Quality are discussed in detail in Section 4.3 of the Draft EIR. Based on the entire record before us, this Commission finds impacts related to exposure of sensitive receptors to substantial pollution concentrations less than significant and, therefore, no mitigation is required. (DEIR pp. 4.3-77 and 4.3-79.)

Facts in Support of the Finding:

Project construction activities will not result in the potential exposure of sensitive receptors to substantial pollutant concentrations because the concentrations of CO, NO₂, PM₁₀ and PM₂₅ will not exceed localized significance criteria during the construction phase. (DEIR p. 4.3-73.) Similarly, the Project will not exceed the operational localized significance threshold as indicated in Tables 4.3-10 and 4.3-11. (DEIR p. 4.3-48 through 4.3-49.) As such, Project construction and operation will not result in the potential exposure of sensitive receptors to substantial pollutant concentrations. Furthermore, an analysis of toxic air contaminants (“TACs”) was performed to address potential health risks associated with Project-generated diesel particulate matter. (*Id.*) This analysis concluded, with respect to Diesel Particulate Matter (“DPM”), the cancer risk significance threshold will not be exceeded at the nearest off-site sensitive receptor locations. (DEIR pp. 4.3-77 and 4.3-78; Table 4.3-18.) Accordingly, the Project’s potential to expose sensitive receptors to substantial pollutant concentrations is

determined to be less than significant and no mitigation is required.

d) Cumulative Impacts – GHG Emissions/Global Climate Change

Potential Significant Impact:

Implementation of the proposed Project could potentially contribute to cumulative impacts in regard to global climate change.

Finding:

Potential impacts of the Project on Air Quality are discussed in detail in Section 4.3 of the Draft EIR. Furthermore, Section 5.1.1.3 discusses Cumulative Impacts Related to Air Quality in Particular. Based on the entire record before us, this Commission finds no significant cumulative impacts related to GHG emissions/global climate change.

Facts in Support of the Finding:

As discussed in Section 4.3 of the DEIR, the proposed Project will not have a significant global climate change impact due to the Project's GHG emissions. As reflected in Section 4.3 of the DEIR, the Project is consistent with the Town's recently adopted climate action plan and will incorporate building design features which will allow the building to exceed California Title 24 Building Energy Efficiency Standards by approximately 22%. (DEIR p. 4.3-59.) Additionally, although the aggregate sum of carbon dioxide equivalent emissions resulting from development and operation of the Project is approximately 18,963 tons, the majority of these emissions are generated by motor vehicles. The Project represents the relocation of the existing Walmart store, thereby resulting in a mere redistribution of existing vehicular trips and vehicular emissions rather than the creation of new emissions in the area. Finally, many of the building energy- efficiency design features included in the Project are consistent with emission reduction measures promoted by California Air Resources Board, the California Attorney General's Office and the California Air Pollution Control Officers Association. (DEIR p. 4.3-68 through 4.3-71.) Accordingly, the proposed Project will not result in a significant cumulative global climate change impact.

4. Noise

a) Construction Activities – Permanent Increase in Ambient

Noise Levels

Potential Significant Impact:

Project construction activities and associated noise could potentially result in a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project.

Potential Noise impacts of the Project are discussed in detail in Section 4.4 of the Draft EIR. Based on the entire record before us, this Commission finds the Project would result in a less than significant impact related to a permanent increase in ambient noise levels resulting from construction activities and, therefore, no mitigation is required. (DEIR p. 4.4-22.)

Facts in Support of the Finding:

Construction noise is not considered a permanent source of noise due to the limited timeframe of construction activities. (DEIR p. 4.4-22.) Accordingly, potential impacts to permanent

ambient noise levels stemming from construction activities are considered less than significant and no mitigation is required. (*Id.*) Further discussion of construction noise impacts is provided below in these Findings.

b) Vehicular Source Noise – Noise Levels in Excess of Town

Standards

Potential Significant Impact:

Project-related vehicular source noise could potentially result in exposure of persons to, or generation of, noise levels in excess of standards established in the Town's General Plan or Noise Ordinance.

Finding:

Potential Noise impacts of the Project are discussed in detail in Section 4.4 of the Draft EIR. Based on the entire record before us, this Commission finds the Project will result in a less than significant impact related to vehicular noise levels in excess of Town standards and, therefore, no mitigation is required. (DEIR p. 4.4- 25 and 4.4-26.)

Facts in Support of the Finding:

In the vicinity of the Project, land uses are affected predominantly by noise levels exceeding 65 dB, emanating from the SR-1 8 and from Dale Evans Parkway. (DEIR p. 4.4-25.) In the case of the Project site and adjoining properties, vehicular noise from adjacent Dale Evans Parkway will continue to be the ambient condition defining noise source. As reflected in Table 4.4-7, increase in ambient noise levels in the vicinity of the proposed Project due to increase vehicular traffic will range from .5dBA to 3.5 dBA. However, the Project will not result in increases in ambient noise due to additional vehicular trips of 3 dBA or more at noise sensitive receptors. (DEIR p. 4.4-23 through 4.4-25.) Additionally, the increase in vehicular noise does not result in an exceedance of any noise standard at non-noise sensitive land uses in the vicinity. Under Horizon Year conditions, CNELs at 50 feet near travel lanes along Dale Evans Parkway in the vicinity of the Project site are projected at up to 73.0 dB. (DEIR p. 4.4-24; Table 4.4-8.) The increase in ambient noise conditions due to Project-related vehicular noise will not exceed applicable thresholds of significance.

c) Vehicle Source Noise – Permanent Increase in Ambient Noise Levels

Potential Significant Impact:

Project-related vehicular source noise could potentially result in a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project.

Finding:

Potential Noise impacts of the Project are discussed in detail in Section 4.4 of the Draft EIR. Based on the entire record before us, this Commission finds the Project would result in a less than significant impact related to a permanent increase in ambient noise levels due to increased vehicular noise and, therefore, no mitigation is required. (DEIR pp. 4.4-26 and 4.4-27.)

Facts in Support of the Finding:

For the majority of the modeled roadway segments, Project-related traffic would result in CNEL increases ranging from 0.5 dB to 2.5 dB, which are less than the Town of Apple Valley's 3.0 dB threshold of significance. (DEIR p. 4.4-26.) However, at the segment of Dale Evans Parkway between Bass Hill Road and Thunderbird Road, the unmitigated CNEL would increase from 68.0 dB to 71.5 dB with the addition of Project-related traffic. This increase exceeds the Town of Apple Valley's 3.0 dB threshold of significance; however, there are no residential or other sensitive properties along this segment of the arterial. Because existing sensitive land uses would not be exposed to noise generation exceeding Town thresholds, the potential impact is considered less than significant. (DEIR p. 4.4- 27) In Horizon Year 2030, all of the CNEL increases for modeled roadway segments would be approximately 1.0 dB or less, and would not exceed the Town of Apple Valley's 3.0 dB threshold of significance. (DEIR p. 4.4-27; Table 4.4- 8.) As such, the potential for Project vehicular source noise to result in a substantial permanent increase in ambient noise levels in the Project vicinity above the levels existing without the Project is less than significant and no mitigation is required. (DEIR p. 4.4-27.)

d) Vehicle Source Noise – Temporary or Periodic Increase in Ambient Noise Levels

Potential Significant Impact:

Project-related vehicular source noise could potentially result in a substantial temporary or periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project.

Finding:

Potential Noise impacts of the Project are discussed in detail in Section 4.4 of the Draft EIR. Based on the entire record before us, this Commission finds the Project will not result in a significant impact related to a temporary or periodic increase in ambient noise levels due to increased vehicular noise and, therefore, no mitigation is required. (DEIR, p. 4.4-27.)

Facts in Support of the Finding:

Vehicular source noise is not considered a temporary or periodic source of noise due to its constant and permanent nature. (DEIR p. 4.4-27.) Accordingly, potential source noise impacts related to a temporary or periodic increase in ambient noise levels are considered less than significant and no mitigation is required. (DEIR p. 4.4-27.)

e) Vibration – Groundborne Noise

Potential Significant Impact:

Implementation of the proposed Project could potentially result exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise.

Finding:

Potential Noise impacts of the Project are discussed in detail in Section 4.4 of the Draft EIR. Based on the entire record before us, this Commission finds the Project will not result in a significant impact related to groundborne vibration or groundborne noise and, therefore, no mitigation is required. (DEIR pp. 4.4-44 and 4.4-45.)

Facts in Support of the Finding:

The Town Development Code prohibits operating or permitting the operation of any device that creates a vibration which is above the vibration perception threshold of an individual at or beyond the property boundary of the source if on private property or at 150 feet from the source if on a public space or public right-of-way.” (DEIR pp. 4.4-44 and 4.4-45.) The primary Project-related vibratory source will be large bulldozers during construction. Based on information presented in the Noise Study, typical bulldozer activities may generate motion velocities of up to 0.02 in/sec at a distance of 25 feet. The nearest existing residence (on Apache Drive) is located approximately 530 feet from the center of the Project site. At this distance, the estimated vibration level will be 0.0002 in/sec, below the perception threshold of 0.01 in/sec. (DEIR p. 4.4-46.) At the nearest non-residential buildings (the Town Hall facilities complex to the southwest, an average distance of about 625 feet from the approximate center of the Project site) the estimated vibration level will be 0.0002 in/sec. Vibration levels generated by Project construction activities are below the level at which building damage occurs (about 0.20 in/sec) and below the impact criteria of 0.01 in/sec. (DEIR p. 4.4-46.) Moreover, construction equipment operations and any associated potential vibration effects would be temporary and transient, and would conclude early in the Project construction phase. Long-term operational aspects of the Project do not include nor require equipment, facilities, or activities that would result in substantial or even perceptible groundborne vibration or groundborne noise. Accordingly, the potential for the Project to result in exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise is considered to be less than significant and no mitigation is required. (DEIR p. 4.4-46.)

5. Public Services and Utilities

a) Governmental Facilities

Potential Significant Impact:

Implementation of the proposed Project could potentially result in or cause substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities; or result in the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for fire protection services, police protection services, or other public services.

Finding:

Potential impacts of the Project on Public Services and Utilities are discussed in detail in Section 4.5 of the Draft EIR. Based on the entire record before us, this Commission finds the Project will result in a less than significant impact related to governmental facilities and, therefore, no mitigation is required. (DEIR pp. 4.5-8 to 4.5-12.)

Facts in Support of the Finding:

The Project may incrementally increase demand for fire protection, police protection and/or other public, potentially resulting in additional staffing or equipment requirements. (DEIR pp. 4.5-9 to 4.5-11.) However, the Project will not result in a potential need or requirement for new physical facilities, the construction of which would result in potentially significant environmental impacts. Existing facilities are sufficient to provide required service for the Project. (DEIR p. 4.5-11.) Certain local improvements including but not limited to roadway/access improvements and water system upgrade(s) are acknowledged as requirements of the Project, and will be implemented as part of the Project design, through the Project Conditions of Approval, and/or pursuant to EIR mitigation measures. (*Id.*) These local improvements do not constitute new substantial physical facilities, the construction of which would result in potentially significant environmental impacts. (DEIR pp. 4.5-11 to 4.5-12.) Nor will the Project cause substantial adverse physical effects from the construction of new or altered government facilities needed to maintain acceptable service ratios, response times, or other performance objectives for fire protection services, police protection services, or other public services. (DEIR p. 4.5-12.) Fees and tax revenues generated by the Project will provide funding sources available for support and enhancement of fire protection, emergency response, and police protection services. Accordingly, the potential for the Project to result in or cause substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities; or result in the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services, is determined to be less than significant and no mitigation is required. (*Id.*)

b) Water and/or Wastewater Treatment Facilities

Potential Significant Impact:

Implementation of the proposed Project could potentially require the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects.

Finding:

Potential impacts of the Project on Public Services and Utilities are discussed in detail in Section 4.5 of the Draft EIR. Based on the entire record before us, this Commission finds the Project will result in a less than significant impact related to water or wastewater treatment facilities and, therefore, no mitigation is required. (DEIR pp. 4.5-12 to 4.5-15.)

Facts in Support of the Finding:

Water will be provided to the Project by the Apple Valley Ranchos Water Company (“AVRWC”). (DEIR p. 4.5-12.) With respect to water demand, future projections for water use by the Project were anticipated by and estimated within the AVRWC 2005 Urban Water Management Plan (“UWMP”). (DEIR p. 4.5- 13.) As such, the Project would not exceed water demand estimates employed in developing the AVRWC 2005 UWMP, as reflected in the Mojave Water Agency Regional Water Management Plan 2005 UWMP Update. (*Id.*) Prior to the issuance of building permits, the Project proponent will obtain a “will-serve” letter, indicating the AVRWC’s intent to serve the Project. (*Id.*) Furthermore, the Project will not require implementation of additional water treatment facilities not already contemplated by the Regional Water Management Plan to meet the Project’s water demands. (DEIR p. 4.5-14.) In regard to wastewater treatment, Project-generated wastewater will be conveyed for treatment to Victor Valley Wastewater Reclamation Authority (“VWVRA”) facilities. (*Id.*) VWVRA wastewater treatment capacities will

not be discernibly affected by the Project. (*Id.*) VVWRA as a regional wastewater treatment provider will determine when, and in what manner, treatment facilities will be constructed and/or upgraded to meet increasing demands of areawide development, including incremental demands of the Project. The Project will pay sewer connection and service fees which act to fund areawide VVWRA improvement plans, operations, and maintenance. (DEIR p. 4.5-15.) Accordingly, the Project's potential to require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects is determined to be less than significant and no mitigation is required. (*Id.*)

c) Storm Water Drainage Facilities

Potential Significant Impact:

Implementation of the proposed Project could potentially require the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects.

Finding:

Potential impacts of the Project on Public Services and Utilities are discussed in detail in Section 4.5 of the Draft EIR. Based on the entire record before us, this Commission finds the Project will result in a less than significant impact related to storm water drainage facilities and, therefore, no mitigation is required. (DEIR p. 4.5-16.)

Facts in Support of the Finding:

The Project will provide all necessary storm water management facilities in order to ensure that storm waters are appropriately collected and treated on-site with no potential adverse impacts to offsite properties, drainage systems, or the beneficial use of waters. (DEIR p. 4.5-15.) The Project Drainage Concept provides for the construction of a series of catch basins and grated inlets that will capture storm water and transport runoff via underground storm drain lines to four on-site retention basins. (*Id.*; Figure 4.5-1.) A system of high-density polyethylene pipelines, ranging in diameter from ten inches to 36 inches, will be installed beneath the parking areas throughout the site to collect and convey the Project's storm flows and runoff to these retention areas. (DEIR pp. 4.5-15 to 4.5-16.) The retention basins shall be designed to de-water within 72 hours in order to minimize potential vector control issues. (DEIR p. 4.5-16.) All required drainage improvements will be implemented to the satisfaction of the Town, consistent with approved final drainage plans and provisions of the Town's Master Plan of Drainage. Consistent with established building code regulations, a site-specific drainage study reflecting precise pad locations, proposed drainage structures, retention/detention areas, etc., is required prior to the issuance of building permits, which will confirm the results of the analysis in this EIR. (*Id.*) Accordingly, the Project's potential to require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects, is determined to be less than significant and no mitigation is required. (*Id.*)

d) Wastewater Treatment Provider and Requirements

Potential Significant Impact:

Implementation of the proposed Project could potentially result in a determination by the wastewater treatment provider which serves or may serve the Project that it has inadequate capacity to serve the Project's projected demand in addition to the provider's existing

commitments; exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board.

Finding:

Potential impacts of the Project on Public Services and Utilities are discussed in detail in Section 4.5 of the Draft EIR. Based on the entire record before us, this Commission finds the Project will have a less than significant impact related to the wastewater treatment provider's capacity to serve the Project or the applicable wastewater treatment requirements and, therefore, no mitigation is required. (DEIR pp. 4.5-18 to 4.5-21.)

Facts in Support of the Finding:

The Victor Valley Wastewater Reclamation Authority ("VWVRA") regional treatment plant, which serves the Town of Apple Valley and the Project site, has the capacity to provide primary, secondary, and tertiary wastewater treatment for approximately 14.5 million gallons per day ("MGD"). (DEIR p. 4.5-18.) Construction is currently underway to expand the capacity of the regional treatment facility to 18.0 MGD. (*Id.*) Wastewater treatment demands of the Project are conservatively estimated to be 19,200 gallons per day ("GPD"). (*Id.*) This represents approximately 0.13 percent of the VWVRA current plant capacity and approximately 0.10 percent of the near-term VWVRA 2008 expanded plant capacity. The Project's incremental wastewater treatment demands are considered nominal based on existing and programmed VWVRA treatment capacities. (*Id.*) In addition, the growth of the population in the VWVRA Service Area and the resulting increase in the quantity of wastewater generated will be served by a combination of regional treatment and subregional reclamation facilities. (DEIR, p. 4.5-19.) The Project's plans for connection to existing sanitary sewer infrastructure facilities are subject to review and approval by the Town, and the Project Applicant will be required to apply for service and pay a mandated connection Fee to the VWVRA. (DEIR p. 4.5-21.) Fees paid by the Project will be applied toward maintenance and expansion of treatment facilities as determined by the VWVRA, as outlined in the August 2005 *Victor Valley Wastewater Reclamation Authority Adopted Policy for Serving the Growth of the Community*. (*Id.*) Accordingly, the Project's potential to either result in a determination by the wastewater treatment provider which serves or may serve the Project that it has inadequate capacity to serve the Project's projected demand in addition to the provider's existing commitments; or exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board, is determined to be less than significant and no mitigation is required. (DEIR p. 4.5-21.)

e) Landfill Capacity Potential Significant Impact:

Potential Significant Impact:

Implementation of the proposed Project could potentially result in an exceedance of permitted landfill capacities.

Finding:

Potential impacts of the Project on Public Services and Utilities are discussed in detail in Section 4.5 of the Draft EIR. Based on the entire record before us, this Commission finds the Project will result in a less than significant impact related to landfill capacity and, therefore, no mitigation is required. (DEIR p. 4.5-22.)

Facts in Support of the Finding:

Solid waste generated by the Project site would be collected by AVCO Waste Management Company, which provides solid waste disposal services for residential and commercial uses

throughout San Bernardino County. (*Id.*) At the discretion of the County Sanitation Department, site-generated solid waste could be disposed of at any of the six regional landfills in the area. The closest of these is the Victorville Regional Sanitary Landfill. (*Id.*) Additionally, a Materials Recycling Facility is located in the City of Victorville to provide processing of residential and mixed commercial recyclables generated within the City of Victorville and the Town of Apple Valley. (*Id.*) It is anticipated that an estimated 3.1 tons/day of waste generated by the Project will be transported to, and disposed of at, the Victorville Regional Sanitary Landfill (“Landfill”). (*Id.*) The estimated closure date of the Landfill is 2059. Maximum throughput of the Landfill is 3,000 tons/day. (*Id.*) Waste generated by the Project would comprise approximately 0.103 percent of the Landfill’s maximum permitted daily throughput, and is considered less-than-significant. (*Id.*) Accordingly, the Project’s potential to result in an exceedance of permitted landfill capacities is less than significant and no mitigation is required. (DEIR p. 4.5-26.)

f) Federal, State and Local Solid Waste Regulations

Potential Significant Impact:

Implementation of the proposed Project could potentially result in noncompliance or conflict with federal, state, and local statutes and regulations related to solid waste.

Finding:

Potential impacts of the Project on Public Services and Utilities are discussed in detail in Section 4.5 of the Draft EIR. Based on the entire record before us, this Commission finds the Project will result in a less than significant impact related to solid waste regulations and, therefore, no mitigation is required. (DEIR p. 4.5- 23.)

Facts in Support of the Finding:

In accordance with the California Integrated Waste Management Act of 1989, the Town of Apple Valley has an adopted a Source Reduction Recycling Element (“SRRE”), approved by the California Integrated Waste Management Board. (*Id.*) The Town has made continued good faith efforts to achieve the Act’s target diversion rate of 50 percent, and as of 2006 had reduced the amount of solid waste sent to area landfills by approximately 59 percent. (*Id.*) Commercial and residential waste recycling programs in support of the SRRE have been implemented by the Town. The Project will comply with and implement applicable Town recycling programs and SRRE requirements. (*Id.*) Accordingly, the potential for the Project to result in, or substantively contribute to, noncompliance or conflict with federal, state, and local statutes and regulations related to solid waste is determined to be less than significant and no mitigation is required. (*Id.*)

g) Storm Water Treatment Control – Best Management Practice

Potential Significant Impact:

Implementation of the proposed Project could potentially result in or require a new or retrofitted storm water treatment control Best Management Practice (“BMP”), (e.g., water quality basin, constructed treatment wetlands), the operation of which could result in significant environmental effects (e.g., increased vectors and/or odors).

Finding:

Potential impacts of the Project on Public Services and Utilities are discussed in detail in Section 4.5 of the Draft EIR. Based on the entire record before us, this Commission finds the Project will result in a less than significant impact related to storm water treatment control and,

therefore, no mitigation is required. (DEIR p. 4.5-24.)

Facts in Support of the Finding:

Project-specific management and conveyance of storm water is adequately and appropriately addressed through connection to existing storm water drainage systems. (*Id.*) All proposed connections to, or modifications of, storm water drainage systems, to include proposed BMP's will be reviewed and approved by the Town and the Lahontan Regional Water Quality Control Board. (*Id.*) Moreover, the Project's proposed storm water detention basins will be designed so as to de-water within 72 hours, thereby minimizing the potential for increased vectors and/or intrusive odors. (*Id.*) Additionally, a project-specific Water Quality Management Plan will be prepared that will identify specific best management practices to be implemented as part of the project to protect water quality. (DEIR pp. 4.7-19 to 4.7-21.) Accordingly, the potential for the Project to require or result in new or retrofitted storm water treatment control facilities or mechanisms that could result in adverse environmental effects is determined to be less than significant and no mitigation is required. (*Id.*)

h) Cumulative Impacts Related to Public Services and Utilities

Potential Significant Impact:

Implementation of the proposed Project could potentially result in significant cumulative impacts related to public services or utilities.

Finding:

Potential impacts of the Project on Public Services and Utilities are discussed in detail in Section 4.5 of the Draft EIR. In addition, Section 5.1.1.5 of the Draft EIR discusses cumulative impacts related to public services and utilities in particular. Based on the entire record before us, this Commission finds the Project will result in a less than significant cumulative impact related to public services or utilities and, therefore, no mitigation is required.

Facts in Support of the Finding:

As indicated in Section 4.5, the proposed Project will not require the construction of new public facilities to serve the Project. Existing facilities are adequate to serve the Project. Additionally, like the Project, other development proposals within the services/utilities cumulative impact area will similarly participate in funding, modification, and improvement of area services and utilities, and that all development will be designed, implemented, and operated consistent with applicable agency requirements, thereby reducing potential cumulative impacts. (DEIR p. 5-25 .) Accordingly, the Project's potential contribution to cumulative impacts in regard to public services and utilities is not considerable, and the cumulative effects of the Project are determined to be less than significant. (*Id.*)

6. Water Supply

a) Groundwater

Potential Significant Impact:

Implementation of the proposed Project could potentially result in substantial depletion of groundwater supplies or substantial interference with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level.

Finding:

Potential impacts of the Project on Water Supply are discussed in detail in Section 4.6 of the Draft EIR. Based on the entire record before us, this Commission finds the Project will result in less than significant impact related to depletion of groundwater supplies and, therefore, no mitigation is required. (DEIR p. 4.6-29 to 4.6-3 1.)

Facts in Support of the Finding:

Water will be supplied to the Project by the Apple Valley Ranchos Water Company (“Water Company”). (DEIR p. 4.6-29.) The Water Company is located within the Mojave River Groundwater Basin (“Basin”), which encompasses 1,400 square miles and has an estimated storage capacity of nearly 5 million acre-feet. (DEIR p. 4.6-5.) The Water Company relies upon groundwater allocations pursuant to the Basin adjudication, as administered and monitored by the Mojave Water Agency (“MWA”). (DEIR p. 4.6-29.) Locally-produced groundwater, extracted from the Basin, is the Water Company’s sole source of supply. (*Id.*) The calculated likely maximum water demands of the Project are estimated at 19,200 gallons per day or approximately 21.51 acre-feet a year. (*Id.*) The Project’s water demand is 0.16 percent of the total 13,448 acre-feet produced by the Water Company in Water Year 2008 to 2009. (*Id.*) This estimate does not take into account mandatory conservation measures as required by the State of California for all new development projects. (*Id.*) Furthermore, development proposed by the Project is reflected in the existing and anticipated water demands identified in the Water Company’s 2005 Urban Water Management Plan. (DEIR p. 4.6-30.) More specifically, the Water Company expected a growth rate of 5 percent per year between the year 2005 and 2025 in the commercial sector. (*Id.*) The projected annual Commercial water demand is 3,400 acre-feet in 2010 to 5,617 acre-feet in 2025. (*Id.*) The Project’s annual demand of 21.51 acre-feet constitutes less than one percent of this anticipated growth. (*Id.*) Furthermore, the Project does not propose elements or aspects that would substantially interfere with, or detract from known or anticipated groundwater recharge plans or policies. (*Id.*) Accordingly, the potential for the Project to substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level is determined to be less than significant and no mitigation is required. (DEIR p. 4.6-31.)

b) Water Supply – Existing Entitlements

Potential Significant Impact:

Sufficient water supplies are available to serve the Project from existing entitlements and resources, or requirements for new or expanded entitlements.

Finding:

Potential impacts of the Project on Water Supply are discussed in detail in Section 4.6 of the Draft EIR. Based on the entire record before us, this Commission finds the Project would result in a less than significant impact related to water supplies available to serve the Project from existing entitlements and resources and, therefore, no mitigation is required. (DEIR p. 4.6-31 to 4.6-32.)

Facts in Support of the Finding:

The Project's water demand is 0.16 percent of the total 13,448 acre-feet produced by the Apple Valley Ranchos Water Company (“Water Company”) in Water Year 2006 to 2007. (*Id.*) Accordingly, the Project water demand is nominal compared to the overall water consumption within the Water Company boundaries. (*Id.*) The Water Company presently relies exclusively on groundwater produced from the Alto subarea of the Mojave River Groundwater Basin

("Basin"). The Basin is adjudicated and the Water Company possesses 13,330 acre-feet of Base Annual Production ("BAP"), which allows for the production of 7,998 acre-feet of Free Production Allowance ("FPA"). (*Id.*) Moreover, the Water Company can rely upon additional groundwater production from its wells to meet increased demand, subject to the purchase of water with the replacement fees. This ability to produce in excess of FPA and the payment of the replacement water assessment, which then allows the Mojave Water Agency ("MWA") to purchase replacement water, provides the Water Company a means to satisfy new demand within the Water Company for many years. (*Id.*) Further, as a long-term strategy, the Victor Valley Wastewater Reclamation Authority, of which the Town is a member, is constructing a subregional reclamation facility. The reclaimed water produced by this facility will be discharged into nearby percolation basins when irrigation and customer demand is low, providing another source of groundwater recharge. (DEIR p. 4.6-32.) Based upon this analysis and the Water Company's 2005 Urban Water Management Plan, it is anticipated that the Water Company will have sufficient water supplies to reliably meet the projected water demand of the Water Company, including the Project, until at least 2030. (*Id.*) In addition to the above, the Project Applicant is also required to obtain a will-serve letter from the Water Company, indicating purveyor capacity and commitment to provide water to the Project. (*Id.*) Accordingly, sufficient water supplies are available to serve the Project from existing entitlements and resources. The potential for the Project to result in the need for new or additional entitlements or resources is therefore determined to be less than significant and no mitigation is required. (*Id.*)

c) Cumulative Impacts Related to Water Supply

Potential Significant Impact:

Implementation of the proposed Project could potentially result in significant cumulative impacts related to water supply.

Finding:

Potential impacts of the Project on Water Supply are discussed in detail in Section 4.6 of the Draft EIR. In addition, Section 5.1.1.6 of the Draft EIR discusses cumulative impacts related to water supply in particular. Based on the entire record before us, this Commission finds the Project will result in a less than significant cumulative impact related to water supply and, therefore, no mitigation is required.

Facts in Support of the Finding:

The potential cumulative impacts attributable to water demands of the Project are adequately planned and provided for under regional and local water management plans. (DEIR p. 5-28.) The Project in combination with current and anticipated future uses can be adequately served by existing and proposed water sources, with neither Project-related, nor cumulatively adverse impacts on the availability or reliability of water supplies, including groundwater. (*Id.*) Accordingly, the Project's potential contribution to cumulative impacts in regard to water supply is not considerable, and the cumulative effects of the Project are determined to be less than significant. (*Id.*)

7. Hydrology and Water Quality

a) Storm Water Runoff from Construction Activities

Potential Significant Impact:

Implementation of the proposed Project could potentially impact storm water runoff from

construction activities.

Finding:

Potential impacts of the Project on Hydrology/Water Quality are discussed in detail in Section 4.7 of the Draft EIR. Based on the entire record before us, this Council finds the Project will result in a less than significant impact related to storm water runoff from construction activities and, therefore, no mitigation is required. (DEIR pp. 4.7-18 and 4.7-19.)

Facts in Support of the Finding:

The Project Applicant will be required to prepare a construction activities erosion control plan to alleviate potential sedimentation and storm water discharge contamination impacts of the Project. (DEIR p. 4.7-18.) The Project Applicant shall also be responsible for compliance with the General Construction NPDES permit from the Lahontan Regional Water Quality Control Board. (*Id.*) Additionally, the Project Applicant shall prepare, retain at the construction site, and implement a Storm Water Pollution Prevention Plan (“SWPPP”) which identifies the sources of sediments and other pollutants that affect the quality of storm water discharge, and implement practices to reduce sediment and other pollutants to storm water discharge. (*Id.*) The SWPPP also identifies both construction and post-construction Best Management Practices (“BMP’s”) to reduce sediments and other pollutants. (*Id.*) The EIR identified potential construction storm water BMPs. (DEIR pp. 4.7-18 to 4.7-19.) Compliance with applicable NPDES and Lahontan Regional Water Quality Control Board requirements will minimize potential construction storm water impacts of the Project below the level of significance and, therefore, no mitigation is required. (DEIR p. 4.7-19.)

b) Post-Construction Discharge of Storm Water

Potential Significant Impact:

Implementation of the Project could potentially result in a discharge of storm water pollutants from post-construction activities; otherwise result in any other potential impacts to storm water runoff from post-construction activities; or otherwise substantially degrade water quality.

Finding:

Potential impacts of the Project on Hydrology/Water Quality are discussed in detail in Section 4.7 of the Draft EIR. Based on the entire record before us, this Commission finds the Project will result in a less than significant impact related to post-construction discharge of storm water and, therefore, no mitigation is required. (DEIR pp. 4.7-19 to 4.7-21.)

Facts in Support of the Finding:

The Project Applicant shall be responsible for obtaining a General Construction Storm Water Permit for storm water discharge from the Lahontan Regional Water Quality Control Board. (DEIR p. 4.7-20.) Additionally, the Project Applicant shall also develop and implement a Project-specific Water Quality Management Plan (“WQMP”). (DEIR p. 4.7-20.) Based on compliance with applicable NPDES requirements and implementation of the Project SWPPP to include any additional requirements identified by the Lahontan Regional Water Quality Control Board, the potential for the Project to result in a potential for discharge of storm water pollutants from post-construction activities, otherwise result in any other potential impacts to storm water runoff from post-construction activities, or otherwise substantially degrade water quality, is determined to be less than significant and no mitigation is required. (DEIR p. 4.7-21.)

c) Cumulative Impacts Related to Hydrology/Water Quality

Potential Significant Impact:

Implementation of the proposed Project could potentially result in significant cumulative impacts related to hydrology/water quality.

Finding:

Potential impacts of the Project on Hydrology/Water Quality are discussed in detail in Section 4.7 of the Draft EIR. In addition, Section 5.1.1.7 of the Draft EIR discusses cumulative impacts related to hydrology/water quality in particular. Based on the entire record before us, this Commission finds the Project will result in a less than significant cumulative impact related to hydrology/water quality and, therefore, no mitigation is required.

Facts in Support of the Finding:

Based on compliance with established policies and regulations, including the General Construction Stormwater Permit, complemented by implementation of Project-specific stormwater management components, the Project's potential contribution to cumulative impacts in regard to hydrology/water quality is not considerable, and the cumulative effects of the Project are determined to be less than significant and no mitigation is required. (DEIR p. 5-29.)

8. Biological Resources

a) Consistency with Local Policies and Ordinances

Potential Significant Impact:

Implementation of the proposed Project could potentially conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

Finding:

Potential impacts of the Project on Biological Resources are discussed in detail in Section 4.8 of the Draft EIR. Based on the entire record before us, this Commission finds the Project will result in a less than significant impact related to consistency with local policies and ordinances and, therefore, no mitigation is required. (DEIR pp. 4.8-19 and 4.8-20.)

Facts in Support of the Finding:

The *Protected Native Desert Plant Site Plan and Survey* prepared for the Project site indicates that a total of twenty (22) Joshua trees occur on-site. (DEIR p. 4.8- 19.) All existing Joshua trees within the Project site will require transplantation from their current locations, and will be relocated within the Project's landscape areas. (DEIR p. 4.8-19; Figure 4.8-1.) The Town Development Code requires consent from the Town Manager or designee prior to the relocation of the Joshua trees on-site. Any necessary permits pursuant to the Desert Native Plants Act will also be acquired. (DEIR p. 4.8-19.) The salvaged trees will be relocated on-site, and transplanted pursuant to protocols and requirements identified by the Development Code 9.76.040(C):

Transplantation. Transplanting approved by the Town of Apple Valley must be initiated and completed under the supervision of a Desert Native Plant Expert. Approval of such transplant must take into consideration the time of year, the land's original and transplanted physical orientation, prevailing wind direction, soil type of the original and transplanted locations, and other related attributes which may affect the successful transplantation of the Joshua Tree(s) in

question as determined by the Town and the retained Botanist. (DEIR p. 4.8-19 and 4.8- 20.)

The Project is consistent with and supports applicable Biological Resources Policies articulated within the Town of Apple Valley General Plan Open Space/Conservation Element. (DEIR p. 4.8-20.) Moreover, the Project will also comply with applicable federal and State policies and regulations protecting biological resources, and will therefore comply with local policies and ordinances adopted in support of broader State and federal mandates. (*Id.*) On this basis, potential impacts to Joshua trees are determined to be less than significant, and the potential for the Project to conflict with other local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance, is likewise determined to be less than significant and no mitigation is required. (*Id.*) Although no mitigation measures are required, the following mitigation measure has been developed to further ensure consistency with Town policies.

4.8.6 Consistent with the Town of Apple Valley Joshua Tree Ordinance, salvageable on-site Joshua trees will be relocated within the Project site or made available for adoption through the Town's Preservation and Adoption Program.

9. Cultural Resources

a) Historic Resources

Potential Significant Impact:

Implementation of the proposed Project could potentially cause a substantial adverse change in the significance of a historic resource as defined in § 15064.5 of the State CEQA Guidelines.

Finding:

Potential impacts of the Project on Cultural Resources are discussed in detail in Section 4.9 of the Draft EIR. Based on the entire record before us, this Commission finds the Project would result in a less than significant impact related to consistency with local policies and ordinances and, therefore, no mitigation is required. (DEIR pp. 4.9-7 to 4.8-8.)

Facts in Support of the Finding:

No standing structures are present within the Project area. (DEIR p. 4.9-7.) The field survey did identify asphalt that appears to be from the eastern end of the main east/west runway associated with the original Apple Valley Inn. (*Id.*) This resource, however, is not recommended for listing in the National Register of Historic Places or the California Register of Historic Resources. No other historic resources were identified as part of the Cultural Resources Assessment. (DEIR p. 4.9-8.) Accordingly, the Project's potential to affect the significance of a historical resource is less than significant and no mitigation is required. (*Id.*)

B. POTENTIALLY SIGNIFICANT IMPACTS WHICH CAN BE MITIGATED BELOW A LEVEL OF SIGNIFICANCE AND MITIGATION MEASURES

Public Resources Code section 21081 states that no public agency shall approve or carry out a Project for which an EIR has been completed which identifies one or more significant effects unless the public agency makes one or more of the following findings:

1. Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the

- environment.
2. Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
 3. Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or alternatives identified in the EIR, and overriding economic, legal, social, technological, or other benefits of the Project outweigh the significant effects on the environment.

The following issues from six of the environmental categories analyzed in the EIR, including Traffic and Circulation, Air Quality, Noise, Biological Resources, Cultural Resources, and Geology and Soils, were found to be potentially significant, but can be mitigated to a less than significant level with the imposition of mitigation measures. This Commission hereby finds pursuant to *Public Resources Code* section 21081 that all potentially significant impacts listed below can and will be mitigated to below a level of significance by imposition of the mitigation measures in the EIR; and that these mitigation measures are included as Conditions of Approval and set forth in the Mitigation Monitoring and Reporting Program adopted by this Council. Specific findings of this Commission for each category of such impacts are set forth in detail below.

1. Land Use Planning

a) Conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the Project.

i) Light/Glare Considerations

Potential Significant Impact:

Whether implementation of the Project would result in impacts due to light spillage onto adjacent properties. The Draft EIR concluded that the construction of the Project will result in the introduction of urban uses within property that has been vacant resulting in a potentially significant impact.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment.

Mitigation Measure:

4.1.1 All proposed light standards located within 75 feet of a residential property line shall be no taller than 15 feet in height, including the support base. Light shield skirts must be used on these lights to block the view of the light source from the adjacent residential properties.

Facts in Support of the Finding:

Potential impacts of the Project on Land Use and Planning are discussed in detail in Section 4.1 of the Draft EIR. This impact is potentially significant but will be mitigated to a level of less than significant with the implementation of Mitigation Measure 4.1.1.

The Project is required to comply with the performance standards included in Town Development Code Section 9.70.020, which are designed to prevent or minimize light overspill into potentially sensitive land use. Additionally, the Photometric Plan demonstrates that the Project's implementation will not result in light spillage onto adjacent properties. The Project's compliance with Town Development Code Section 9.70.020 along with the implementation of Mitigation Measure 4.1.1, which minimizes the height of light standards and requires shielding to reduce impacts on residential properties, ensures all potential Project impacts will be less than significant. (DEIR p. 4.1-22.)

2. Traffic and Circulation

a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system.

i) Opening Year (2010) – Potential Intersection Impacts

Potential Significant Impact:

The DEIR evaluated and concluded that Project implementation, with Opening Year (2010) traffic conditions, could cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system. That is, result in a substantial increase in either the number of vehicle trips, the volume to capacity ratios on roads or freeways, or congestions at intersections; exceed either individually or cumulatively, a level of service standard ("LOS") established by the county congestion management agency for designated roads or highway.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

4.2.1 Prior to the issuance of the first building permit within the Project site, the Project Applicant shall contribute Development Traffic Impact Fees toward the following improvements

at the intersection of Happy Trails Highway (SR-18) at Apple Valley Road

- Add one lane to the intersection's northbound approach and re-stripe to provide two left turn lanes, one through lane and one right-turn lane; and
- Provide right-turn overlap phasing with westbound left-turn movement on the intersection's northbound approach [HORIZON YEAR].

4.2.2 Prior to the issuance of the first building permit within the Project site, the Project Applicant shall contribute Development Traffic Impact Fees toward the installation of stop sign controls on all four approaches to the intersection of Flathead Road at Rancherias Road.

4.2.3 Prior to the issuance of the first building permit within the Project site, the Project Applicant shall contribute Development Traffic Impact Fees toward installation of stop-sign controls on all three approaches to the intersection of Rancherias Road at Thunderbird Road. (DEIR pp. 4.2-46 to 4.2-48.)

Facts in Support of the Finding:

Potential impacts of the Project on Traffic and Circulation are discussed in detail in Section 4.2 of the Draft EIR. This impact is potentially significant but will be mitigated to a level of less than significant with the implementation of Mitigation Measures 4.2.1 to 4.2.3. (DEIR pp. 4.2-38 to 4.2-40.)

Of the twenty-two (22) traffic study intersections, one (1) intersection operates unacceptably in both the AM and PM peak hours under Opening Year weekday traffic conditions, and two (2) additional intersections operate unacceptably in the Saturday mid-day peak hour period. (DEIR pp. 4.2-31 and 4.2-32; Tables 4.2-8 to 4.2-10.) Specifically, Opening Year LOS deficiencies are projected to occur at the following intersections: (1) Happy Trails Highway at Apple Valley Road; (2) Flathead Road at Rancherias Road; and (3) Rancherias Road at Thunderbird Road. (*Id.*) To facilitate and fund the construction of roadway improvements, and thereby reduce potential impacts on the Town's circulation system, the Town implements a Traffic Impact Fee Program through which the Town assesses and collects fees from new development. (DEIR pp. 4.2-18 and 4.2-19.) The Traffic Impact Fee is assessed on new development to pay for the development's share of roadway improvements needed to maintain adequate levels of service and to prevent further degradation of roadway facilities currently operating at deficient levels. (DEIR p. 4.2-18.) As required by the Mitigation Measures 4.2.1 to 4.2.3, the Project will be required to pay Traffic Impact Fees toward the improvements specified above. With implementation of Mitigation Measures 4.2.1 to 4.2.3, the following intersections are projected to operate at a satisfactory LOS, reducing this potentially significant impact to a less than significant level at: (1) Happy Trails Highway at Apple Valley Road; (2) Flathead Road at Rancherias Road; and (3) Rancherias Road at Thunderbird Road. (DEIR pp. 4.2-38 to 4.2-40; Table 4.2-13.) Accordingly, potential traffic impacts to the above-referenced intersections are determined to be less than significant with appropriate mitigation.

ii) Horizon Year (2030) – Potential Intersection Impacts

Potential Significant Impact:

The DEIR evaluated and concluded that Project implementation, with Horizon Year (2030) traffic conditions, could cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system. That is, result in a substantial increase in either the number of vehicle trips, the volume to capacity ratios on roads or freeways, or congestions at intersections; exceed either individually or cumulatively, a level of service

standard (“LOS”) established by the county congestion management agency for designated roads or highway.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

4.2.1 Prior to the issuance of the first building permit within the Project site, the Project Applicant shall contribute Development Traffic Impact Fees toward the following improvements at the intersection of Happy Trails Highway (SR-18) at Apple Valley Road:

- *Add one lane to the intersection’s northbound approach and re- stripe to provide two left turn lanes, one through lane and one right-turn lane; and*
- *Provide right-turn overlap phasing with westbound left-turn movements on the intersection’s northbound.*

4.2.2 Prior to the issuance of the first building permit within the Project site, the Project Applicant shall contribute Development Traffic Impact Fees toward the installation of stop-sign controls on all four approaches to the intersection of Flathead Road at Rancherias Road.

4.2.3 Prior to the issuance of the first building permit within the Project site, the Project Applicant shall contribute Development Traffic Impact Fees toward installation of stop-sign controls on all three approaches to the intersection of Rancherias Road at Thunderbird Road.

4.2.4 Prior to the issuance of the first building permit within the Project site, the Project Applicant shall contribute Development Traffic Impact Fees toward the provision of an additional lane in the southbound direction at the intersection of Dale Evans Parkway and Thunderbird Road.

4.2.5 Prior to the issuance of the first building permit within the Project site, the Project Applicant shall contribute Development Traffic Impact Fees toward the installation of a traffic signal at the intersection of Thunderbird Road at Navajo Road.

4.2.6 Prior to the issuance of the first building permit within the Project site, the Project Applicant shall contribute Development Traffic Impact Fees toward the installation of a traffic at the intersection of Happy Trails Highway (SR-18) at Standing Rock Road.

4.2.7 Prior to the issuance of the first building permit within the Project site, the Project Applicant shall contribute Development Traffic Impact Fees toward the installation of a traffic signal at the intersection of Happy Trails Highway (SR-18) at Rimrock Road.

4.2.8 Prior to the issuance of the first building permit within the Project site, the Project Applicant shall contribute Development Traffic Impact Fees toward the addition of a second left-turn lane to the eastbound approach of the intersection of Happy Trails Highway (SR-18) at Corwin Road.

Facts in Support of the Finding:

Potential impacts of the Project on Traffic and Circulation are discussed in detail in Section 4.2 of the Draft EIR. This impact is potentially significant but will be mitigated to a level of less than significant with the implementation of Mitigation Measures 4.2.1 to 4.2.8.

Under Horizon Year (2030) conditions, the following intersections are anticipated to operate at an unacceptable LOS: (1) Dale Evans Parkway at Thunderbird Road; (2) Thunderbird Road at Navajo Road; (3) Happy Trails Highway at Standing Rock; (4) Rancherias Road at Thunderbird Road; (5) Happy Trails Highway at Corwin Road; (6) Happy Trails Highway at Rimrock Road; (7) Happy Trails Highway at Apple Valley Road; (8) D Street at Hesperia Road; and (9) D Street at 7th Street. (DEIR pp. 4.2-33 to 4.2-36; Tables 4.2-11 and 4.2-12.) To facilitate and fund the construction of roadway improvements, and thereby reduce potential impacts on the Town's circulation system, the Town implements a Traffic Impact Fee Program through which the Town assesses and collects fees from new development. (DEIR pp. 4.2-18 and 4.2-19.) The Traffic Impact Fee is assessed on new development to pay for the development's share of roadway improvements needed to maintain adequate levels of service and to prevent further degradation of roadway facilities currently operating at deficient levels. (DEIR p. 4.2-18.) As required by the Mitigation Measures 4.2.1 to 4.2.8, the Project will be required to pay Traffic Impact Fees toward the improvements specified above. With implementation of Mitigation Measures 4.2.1 to 4.2.8, the following intersections are projected to operate at a satisfactory LOS, reducing this potentially significant impact to a less than significant level: (1) Dale Evans Parkway at Thunderbird Road; (2) Thunderbird Road at Navajo Road; (3) Happy Trails Highway at Standing Rock Road; (4) Rancherias Road at Thunderbird Road; (5) Happy Trails Highway at Corwin Road; (6) Happy Trails Highway at Rimrock Road; and (7) Happy Trails Highway at Apple Valley Road. (DEIR pp. 4.2-41 to 4.2-45; Table 4.2-14.) Accordingly, potential traffic impacts to the above-referenced intersections are determined to be less than significant with appropriate mitigation.

3. Air Quality

a) Violate any air quality standard, contribute substantially to an existing or projected air quality violation.

i) Construction-Related Air Quality Impacts

Potential Significant Impact:

The DEIR evaluated and concluded that Project-related construction emissions could potentially violate an air quality standard, and/or contribute substantially to an existing or projected air quality violation.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

4.3.1 During grading and construction of the proposed improvements, the Project Applicant will implement all applicable Best Available Control Measures listed in Table 5 of the Draft EIR Appendix D, Air Quality Analysis Report, Wal-Mart Shopping Center Project, Apple Valley, California (Chambers Group, Inc.), Revised September 2010.

4.3.2 *The construction contractor shall water all active areas and any unpaved haul routes a minimum of four times daily.*

4.3.3 *The construction contractor shall ensure that, on unpaved roads, construction traffic speeds are reduced to 15 miles per hour.*

4.3.4 *The construction contractor shall ensure that soil stabilizers are applied to inactive areas.*

4.3.5 *The construction contractor shall ensure that groundcover in disturbed areas is replaced as soon as possible.*

4.3.6 *The construction contractor shall ensure that any materials loaded or unloaded on-site will be sufficiently watered to prevent visible plumes of dust.*

4.3.7 *The construction contractor shall ensure that, where feasible, diesel particulate filters shall be used with all of the on-site construction equipment.*

4.3.8 *Construction activities that result in grading or other surface disturbances shall be limited to five (5) acres per day.*

Facts in Support of the Finding:

Potential impacts of the Project on Air Quality are discussed in detail in Section 4.3 of the Draft EIR. This impact is potentially significant but will be mitigated to a less than significant level through the implementation of Mitigation Measures 4.3.1 to 4.3.8.

Air pollutant emissions generated by the Project would include shortterm/temporary construction emissions resulting primarily from site grading and facilities construction activities. (DEIR p. 4.3-38.) With respect to regional air quality impacts, prior to application of mitigation measures, maximum daily PM₁₀ emissions generated by Project grading activities are anticipated to exceed Mojave Desert Air Quality Management District (“MDAQMD”) thresholds. (DEIR p. 4.3-40.) Other pollutant emissions generated by Project construction activities will not exceed MDAQMD annual or daily regional thresholds. (*Id.*; Table 4.3-6.) The application of the proposed mitigation measures would successfully reduce construction-related PM₁₀ emissions to below MDAQMD daily regional thresholds. (DEIR p. 4.3-43; Table 4.3-7.) Furthermore, the Project Air Quality Analysis Report determined that the Project would not create impacts at the closest residential/sensitive receptor. (DEIR pp. 4.3-43 and DEIR 4.3-44.) With implementation of mitigation measures, project-related construction emissions will not exceed applicable localized significance thresholds. (DEIR p. 4.3-43 through 4.3-44.) Accordingly, with implementation of Mitigation Measures 4.3.1 to 4.3.8 outlined above, construction-related air quality impacts would be less than significant. (*Id.*)

b) Cumulative Impacts – Construction Air Pollutants

Potential Significant Impact:

Whether implementation of the proposed Project could result in adverse cumulative emissions impacts due to construction activities.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

See Mitigation Measures 4.3.1 to 4.3.8, above.

Facts in Support of the Finding:

Potential impacts of the Project on Air Quality are discussed in detail in Section 4.3 of the Draft EIR. In addition, Section 5.1.1.3 of the Draft EIR discusses cumulative air quality impacts in particular. The impact from cumulative air emissions is potentially significant but can be reduced to less than significant levels with implementation of Mitigation Measures 4.3.1 through 4.3.8.

Project construction activities will not result in any threshold exceedances, nor will the Project result in any locally significant air quality impacts. (DEIR p. 5- 16.) There are, however, known or anticipated concurrent proximate development projects that would contribute cumulatively to the Project's construction emissions impacts. (*Id.*) Notwithstanding, it is assumed that like the Project, other development proposals within the surrounding areas will be required to reduce construction emissions impacts to the extent feasible consistent with MDAQMD and Town rules and regulations, thereby avoiding or reducing potential adverse cumulative emissions impacts due to construction activities. (*Id.*) Accordingly, the Project's contribution to cumulative impacts in regard to construction air pollutants is not considerable and the cumulative effects of the Project are determined to be less than significant.

4. Noise

a) Operational Noise.

i) Project Operational Noise – Exceedance of General Plan or Noise Ordinance Standards

Potential Significant Impact:

The DEIR evaluated and concluded that Project implementation could potentially produce operational noise which would result in exposure of persons to, or generation of, noise levels in excess of standards established in the Town's General Plan or Noise Ordinance.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

4.4.4 Immediately following the completion of rough grading, a noise barrier with a minimum height of ten (10) feet (measured relative to the grade elevation of the adjacent driveway or the adjacent residential properties, whichever is greater) shall be constructed along the entire southeast property line of the Project site. This barrier shall be a continuous structure without gaps or gates. Along the Project boundaries adjacent to residential properties, the noise barrier will be constructed on a two-foot berm. The noise barrier shall be constructed to either: (a) provide a minimum surface density of four (4) pounds per square foot, and be lined with sound

absorptive panels on the side facing the Project site; or (b) use sound absorptive masonry blocks (e.g., SoundBlox) to provide an equivalent degree of noise protection.

4.4.5 The following activities shall be limited to the hours between 7:00 a.m. and 10:00 p.m.: truck deliveries, loading dock activities, trash pickups, forklift operations, and use of outdoor public address system(s). Project tenants shall be provided written notice of these requirements and limitations by the Applicant or his designee. Copies of such notification shall be provided to the Lead Agency.

4.4.6 Delivery trucks shall not be permitted to idle in the parking lots or loading areas, and shall be required to have properly maintained, factory- approved mufflers. Delivery truck drivers shall minimize acceleration and maintain reduced vehicle speeds while onsite. Project tenants shall be provided written notice of these requirements by the Applicant or designee, and these requirements shall be incorporated as part of the delivery services contract documentation, and/or shall be provided and recognized separately. Copies of such notification shall be provided to the Lead Agency.

4.4.7 Between 10:00 p.m and 7:00 a.m trash shall not be dumped into the outdoor trash bins, and the trash compactor at Parcel 1 shall not be used. Carts used to transport trash to the outdoor bins shall have large- diameter rubber wheels to minimize noise. Project tenants shall be provided written notice of this requirement by the Applicant or his designee. Copies of such notification shall be provided to the Lead Agency. To the satisfaction of the Town, signage indicating these restrictions and requirements shall be placed on the trash compactors and compactor bins prior to the issuance of occupancy permits.

4.4.8 All forklifts to be used at the major anchors shall be electric. Project tenants shall be provided written notice of this requirement by the Applicant or his designee. Copies of such notification shall be provided to the Lead Agency.

4.4.9 Walmart's internal policies and procedures shall require that exterior doors, including any loading dock doors, on the south, east, and west elevations of buildings shall be kept closed when not in use, and to ensure that employee shouting and the use of radios is minimized when loading dock doors are open. Employees shall be provided written notice of these requirements by the Applicant or his designee. Copies of such notification shall be provided to the Lead Agency.

Facts in Support of the Finding:

Potential Project-related Noise impacts are discussed in detail in Section 4.4 of the Draft EIR. This impact is potentially significant but will be mitigated to a level of less than significant with the implementation of Mitigation Measures 4.4.4 to 4.4.9.

The Project's unmitigated composite noise levels attributable to on-going Project activities and operations (inclusive of parking lot activities, drive-through activities, tire, lube express operations, mechanical equipment, loudspeakers, and loading dock activities), as well as unmitigated noise levels attributed to individual Project operational noise sources would exceed applicable Noise Ordinance Standards for daytime and/or nighttime conditions. (DEIR pp. 4.4-39 to 4.4-40; Table 4.4-15.) As such, noise generated by Project operations and area/site sources would result in exposure of persons to, or generation of, noise levels in excess of Town of Apple Valley Noise Ordinance Standards at receiving residential land uses. (*Id.*) Implementation of Mitigation Measures 4.4.4 to 4.4.9 will act to reduce noise generated by

Project operations and site/area noise sources below Ordinance Standards. (DEIR p. 4.4-45; Table 4.4-17.) Specifically, those measures will require the construction of a noise barrier, limitation of the hours of noise-generating activities, use of quieter equipment and the closure of exterior doors when not in use. Accordingly, with implementation of Mitigation Measures 4.4.4 to 4.4.9 Project-related operational noise impacts would be less than significant. (DEIR pp. 4.4-39 to 4.4-46.)

ii) Project Operational Noise – Temporary or Periodic Increase in Ambient Noise Levels

Potential Significant Impact:

The DEIR evaluated and concluded that Project implementation could potentially produce operational noise which would result in a substantial temporary or periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

See Mitigation Measures 4.4.4 to 4.4.9, above.

Facts in Support of the Finding:

Potential Project-related Noise impacts are discussed in detail in Section 4.4 of the Draft EIR. This impact is potentially significant but will be mitigated to a level of less than significant with the implementation of Mitigation Measures 4.4.4 to 4.4.9.

Temporary and periodic peak noise events (e.g. truck deliveries), as well as the calculated maximum noise level generated by Project operations and area/site sources would result in a substantial temporary and periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project. (DEIR p. 4.4-41.) However, with implementation of Mitigation Measures 4.4.4 to 4.4.9, noise increases due to individual temporary and periodic operational noise events would not be considered substantial. (*Id.*) Accordingly, this impact, as mitigated, is less than significant. (*Id.*)

iii) Project Operational Noise – Permanent Increase in Ambient Noise Levels

Potential Significant Impact:

The DEIR evaluated and concluded that Project implementation could potentially produce operational noise which would result in a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

See Mitigation Measures 4.4.4 to 4.4.9, above.

Facts in Support of the Finding:

Ambient noise conditions at the nearest sensitive receptors in the Project vicinity are estimated at 42.7-50.9 dBA daytime/34.3-47.3 dBA nighttime and currently exceed Town Standards. (DEIR p. 4.4-42.) Without mitigation, noise generated by Project operations and site activities will increase the ambient conditions at these receptors by an estimated 13.3 to 21.5 dBA. (*Id.*; Table 4.4-16.) As such, unmitigated noise levels generated by Project operations and area/site sources would result in a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project. (DEIR p. 4.4-43.) With implementation of Mitigation Measures 4.4.4 to 4.4.10, Project composite noise levels plus ambient conditions at potentially affected residential land uses would be less than the applicable daytime/nighttime standard, and therefore would not be considered a substantial permanent increase in noise levels. (DEIR p. 4.4-46.) Accordingly, this impact, as mitigated, is less than significant. (*Id.*)

5. Biological Resources

a) Candidate, Sensitive, or Special Status Species

Potential Significant Impact:

The DEIR evaluated potential impacts to biological resources and concluded that Project implementation could potentially substantially affect, either directly or through habitat modifications, species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game (“CDFG”) or United States Fish and Wildlife Service (“USFWS”).

Finding:

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

4.8.1 A preconstruction presence/absence survey will be required within 30 days prior to disturbance to determine the current presence of burrowing owls. If any active nests are found on-site during the preconstruction survey, an informal consultation and the development of a Mitigation

Plan with California Department of Fish & Game (CDFG) will be required.

If occupied burrows are found, occupied burrows shall be avoided as recommended by the Burrowing Owl Survey Protocol and Mitigation Guidelines, consisting of maintaining a 75-meter radius protective buffer during the breeding season (February 1 through August 31). Mitigation may consist of passively excluding the owls from their burrow during the non-breeding season, using methods specific in the Guidelines in coordination with CDFG. Any mitigation, including the purchase of off-site mitigation land, shall be part of the Mitigation Plan that shall be submitted to and approved by CDFG prior to project grading including passive relocation methods and the location and acreage of proposed off-site mitigation land.

4.8.2 All initial ground disturbing activities shall be limited to the time period between September 1 and February 1. If initial Project-specific site disturbance, grading and vegetation removal cannot be conducted during this time period, pre-construction surveys for active nests within the limits of the Project shall be conducted by a qualified biologist. These surveys shall be conducted two weeks prior to any construction activities.

4.8.3 If active nests or roosts are located, then all construction work must be conducted outside an established non-disturbance buffer zone at a distance established in consultation with the CDFG. No direct disturbance to nests shall occur until the young are no longer reliant on the nest site as determined by a qualified biologist. The approved biologist shall conduct monitoring of the nest until all young have fledged.

4.8.4 If more than 30 days has elapsed between owl eviction and completion of clearing and grubbing activities, a subsequent survey for the burrowing owl shall be conducted to ensure that owls have not re-populated the site. Any reoccupation by owls will require subsequent protocol active eviction.

4.8.5 Limits of the Project site shall be clearly marked by stakes or other means to ensure that off-site areas are not disturbed by Project construction activities.

Facts in Support of the Finding:

Potential impacts of the Project on Biological Resources are discussed in detail in Section 4.8 of the Draft EIR. This impact is potentially significant but will be mitigated to a less than significant level with the implementation of Mitigation Measures 4.8.1 to 4.8.5.

The burrowing owl is the only sensitive wildlife species that would be affected by the Project. (DEIR p. 4.8-17.) At present, at least one owl is considered to reside within the Project site, and impacts to the burrowing owl are determined to be potentially significant based on owl displacement that will occur as a result of the Project. (*Id.*) With application of Mitigation Measures 4.8.1 to 4.8.5, impacts to the owl are reduced to levels that are less than significant. (*Id.*) Migratory birds may nest within the Project site are protected pursuant to provisions of the Migratory Bird Act and CDFG Code Regulations 3500 and 3800. The Project will not otherwise potentially or substantially affect, either directly or through habitat modifications, any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game ("CDFG") or United States Fish and Wildlife Service ("USFWS"). (*Id.*) Accordingly, with implementation of Mitigation Measures 4.8.1 to 4.8.5, potentially significant impacts to migratory birds and the burrowing owl are considered less than significant. (DEIR pp. 4.8- 14 to 4.8-19.) Specifically, those measures require preconstruction surveys, limitation of ground disturbance to non-nesting periods, avoidance of any discovered nests, post-eviction surveys, and staking of avoided areas. Notably, the EIR was distributed to the CDFG through the State Clearinghouse, but CDFG submitted no comments on the Project or the EIR. Therefore, the Town may presume that CDFG has no comments to make.

b) Cumulative Impacts Related to Biological Resources

Potential Significant Impact:

Implementation of the proposed Project could potentially result in significant cumulative impacts related to biological resources.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

See Mitigation Measures 4.8.1 through 4.8.5, above

Facts in Support of the Finding:

Potential impacts of the Project on Biological Resources are discussed in detail in Section 4.8 of the Draft EIR. In addition, Section 5.1.1.8 of the Draft EIR discusses cumulative impacts related to biological resources in particular. This impact is potentially significant but will be mitigated to a less than significant level with implementation of Mitigation Measures 4.8.1 through 4.8.5 enumerated above.

Mitigation of Project-specific biological resources impacts will reduce the Project's potential incremental contributions to cumulative biological resources impacts within the region. (DEIR p. 5-30.) Although Project specific impacts can be mitigated to a less than significant level, the Project could still have a significant cumulative impact due to loss of high-quality habitat. However, as indicated in the DEIR and supporting biological impact analysis, the Project site is surrounded by existing commercial and residential development and isolated from open areas and undisturbed desert habitat. (DEIR p. 4.8-8.) The Project site is identified as low-quality habitat for the desert tortoise and Mohave ground squirrel, to list the endangered and/or threatened species. (DEIR p. 4.8-7.) Adjacent developed land uses and disturbance on site make the Project site unsuitable for the tortoise. (*Id.*) Additionally, the Project site lies outside the no range of the Mohave ground squirrel. (*Id.*) The only special status species identified on the Project site is the Burrowing owl. However, loss of the Project site, would not have a significant cumulative effect on the Borrowing owl species. To the extent that each development proposal within the cumulative impact area provides appropriate mitigation, cumulative impacts to biological resources will be reduced to levels that are less than significant. (*Id.*) Accordingly, with application of the proposed mitigation measures, the Project's potential contribution to cumulative impacts in regard to biological resources is not considerable, and the cumulative effects of the Project are determined to be less than significant. (*Id.*)

6. Cultural Resources

a) Archeological Resources

Potential Significant Impact:

The DEIR evaluated and concluded that the Project could potentially cause a substantial adverse change in the significance of an archeological resource as defined in § 15064.5 of the State CEQA Guidelines.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment.

Mitigation Measure:

4.9.1 A professional archaeological monitor (Project Archaeological Monitor) shall conduct fulltime monitoring of site excavation and grading activities. The monitor shall be equipped to salvage and record the location of archaeological and/or historic resources as they may be unearthed to avoid construction delays. The monitor shall be empowered to temporarily halt or divert equipment to allow removal of abundant or large specimens or finds and to allow the preparation of recovered resources to a point of identification. With the exception of significant Native American resources that may be returned to a Tribe, all recovered resources shall then be curated in an established, accredited museum repository with permanent retrievable archaeological/historic resource storage. A report of findings shall also be prepared by the Project Archaeological Monitor, and shall include an itemized inventory of any specimens recovered. The report and confirmation of curation of any recovered resources from an accredited museum repository shall signify completion of the program to mitigate impacts to archaeological/historic resource resources. If disturbed resources are required to be collected and preserved, the applicant shall be required to participate financially up to the limits imposed by Public Resources Code Section 21083.2.

Facts in Support of the Finding:

Potential impacts of the Project on Cultural Resources are discussed in detail in Section 4.9 of the Draft EIR. This impact is potentially significant but will be mitigated to a less than significant level with the implementation of Mitigation Measure 4.9.1.

Although the Project Cultural Resources Assessment determined that no evidence of prehistoric use exists for the Project area, the Apple Valley General Plan indicates that “[t]here is an abundance of materials of historic and prehistoric nature in the Apple Valley area.” (DEIR p. 4.9-8 to 4.9-9.) As part of the Cultural Resources Assessment, a Sacred Lands File search was conducted for the Project area by the California Native American Heritage Commission (“NAHC”) in 2006. The results of that search were negative. Although the results of that search were negative, there is the potential for subsurface archaeological resources. Accordingly, with implementation of Mitigation Measure 4.9.1, which requires construction monitoring for discovered archeological resources, potential impacts to archeological resources are determined to be less than significant. (DEIR pp. 4.9-8 to 4.9-9.)

b) Unique Paleontological Resources or Geological Features

Potential Significant Impact:

The DEIR evaluated and concluded that Project implementation could directly or indirectly destroy a unique paleontological resource or site or unique geological feature.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment.

Mitigation Measure:

4.9.2 A professional paleontological monitor (Project Paleontological Monitor) shall conduct fulltime monitoring of site excavation and grading activities. The paleontological monitor shall be equipped to salvage and record the location of paleontologic and/or fossil resources as they may be unearthed to avoid construction delays. The Project Paleontological Monitor shall be empowered to temporarily halt or divert equipment to allow removal of abundant or large

specimens or finds and to allow the preparation of recovered resources to a point of identification. All recovered specimens shall then be curated in an established, accredited museum repository with permanent retrievable paleontologic storage. A report of findings shall also be prepared by the Project Paleontological Monitor, and shall include an itemized inventory of any specimens recovered. The report and confirmation of curation of any recovered specimens from an accredited museum repository shall signify completion of the program to mitigate impacts to paleontologic resources.

Facts in Support of the Finding:

Potential impacts of the Project on Cultural Resources are discussed in detail in Section 4.9 of the Draft EIR. This impact is potentially significant but will be mitigated to a less than significant level with the implementation of Mitigation Measure 4.9.2.

With respect to unique paleontological resources or unique geological features, The Project Cultural Resources Assessment indicates that the site's Holocene sediments "are too young geologically to have any potential to contain significant nonrenewable paleontologic resources, and so are assigned low paleontologic sensitivity. (DEIR p. 4.9-10.) Underlying granitic rocks are also assigned low paleontologic sensitivity." (*Id.*) However, should older alluvium be present within the site, the Cultural Resources Assessment recommends that the Project area be monitored during excavations. No unique geologic features have been identified on or adjacent to the Project site. If fossils are identified, they must be recovered, analyzed, and curated in accordance with County and State guidelines. (*Id.*) Accordingly, with implementation of Mitigation Measure 4.9.2, which requires construction monitoring for discovery of paleontological resources, potential impacts to unique paleontological resources or unique geological features are determined to be less than significant. (*Id.*)

c) Cumulative Impacts Related to Cultural Resources

Potential Significant Impact:

Whether implementation of the proposed Project could result in significant cumulative impacts related to cultural resources.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

See Mitigation Measures 4.9.1 and 4.9.2, above.

Facts in Support of the Finding:

Potential impacts of the Project on Cultural Resources are discussed in detail in Section 4.9 of the Draft EIR. In addition, Section 5.1.1.9 of the Draft EIR discusses cumulative impacts related to cultural resources in particular. This impact is potentially significant but will be mitigated to a less than significant level with implementation of Mitigation Measures 4.9.1 and 4.9.2 enumerated above.

Impacts to any cultural resources within the cumulative impact area would be site- specific. (DEIR p. 5-31.) To the extent that each development proposal within the cumulative impact area provides appropriate mitigation during landform modification activities (as is the case for

the Project), cumulative impacts to cultural resources are reduced to levels that are less than significant. (*Id.*) Accordingly, with application of the proposed mitigation measures, the Project's potential contribution to cumulative impacts in regard to cultural resources is not considerable, and the cumulative effects of the Project are determined to be less than significant.

7. Geology and Soils

a) Exposure of People or Structures to Seismic Ground Shaking or Seismic-Related Ground Failure

Potential Significant Impact:

The DEIR evaluated and concluded that Project implementation could result in exposure of people or structures to potentially substantial adverse effects, including the risk of loss, injury or death involving strong seismic ground shaking or seismic-related ground failure, including liquefaction.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment.

Mitigation Measure:

4.10.1 Prior to the issuance of construction permits, and to the satisfaction of the Town, the Project Applicant shall ensure that the recommendations, performance standards, and requirements established within the Project Geotechnical Investigation which address: exposure of people or structures to potentially substantial adverse effects of strong seismic ground shaking or seismic-related ground failure (including liquefaction) are incorporated into Project site design and construction plans. A qualified geotechnical engineer shall be retained on-site to ensure that Project implementation is realized consistent with specifications and requirements identified in the Project Geotechnical Investigation.

Facts in Support of the Finding:

Potential impacts of the Project on Geology and Soils are discussed in detail in Section 4.10 of the Draft EIR. This impact is potentially significant but will be mitigated to a less than significant level with the implementation of Mitigation Measure 4.10.1.

The Project site and immediate vicinity do not lie within, nor immediately adjacent to, an Alquist Priolo Earthquake Fault Zone. Further, the Project Geotechnical Investigation indicates that no known active faults have been identified "projecting toward or extending across the Project site." (DEIR p. 4.10-9.) As such, the potential for fault rupture within the Project area is considered low. However, strong seismic ground shaking may occur at the site due to earthquakes along regional faults. (*Id.*) In this latter regard, building officials and engineers have recognized the impacts of earthquakes and ground shaking on structures. Appropriate measures which reduce the effects of earthquakes at the Project site are identified in the California Building Code ("CBC"), as implemented by the Town of Apple Valley, including specific provisions and recommendations included within the Project Geotechnical Investigation. Short of a catastrophic event, design of structures in accordance with the Project Geotechnical Investigation, the CBC, and current professional engineering practices is sufficient to reduce potential effects of ground shaking at the Project site below the level of significance. (*Id.*) Additionally, the Project is required to conform with site- and design- specific

geotechnical investigations that will be prepared for each increment or phase of construction. Through established Site Plan, Building Permit, and Certificate of Occupancy requirements, the Town will verify that required design and construction measures are incorporated in the site/Project designs and in the completed structures and facilities. It is anticipated that any site-specific geologic constraints which may be encountered during the course of Project implementation can be mitigated to a less than significant level within the context of the findings and recommendations of the Project Geotechnical Investigation, and existing Town/CBC seismic design regulations, standards, and policies. Mitigation Measure 4.10.1 ensures adherence to, and provides monitoring of compliance with, the findings and recommendations of the Project geotechnical documents. Accordingly, potential impacts from seismic ground shaking or seismic-related ground failure are determined to be less than significant. (DEIR p. 4.10-10.)

b) Soil Stability

Potential Significant Impact:

The DEIR evaluated and concluded that the Project could be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment.

Mitigation Measure:

4.10.2 Prior to the issuance of construction permits, and to the satisfaction of the Town, the Project Applicant shall ensure that the recommendations, performance standards, and requirements established within the Project Geotechnical Investigation which address: potential location on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project, are incorporated into Project site design and construction plans. A qualified geotechnical engineer shall be retained on-site to ensure that Project implementation is realized consistent with specifications and requirements identified in the Project Geotechnical Investigation.

Facts in Support of the Finding:

Potential impacts of the Project on Geology and Soils are discussed in detail in Section 4.10 of the Draft EIR. This impact is potentially significant but will be mitigated to a less than significant level with the implementation of Mitigation Measure 4.10.2.

As identified in the Project Geotechnical Investigation, the potential for liquefaction at the site is considered low. (DEIR p. 4.10-12.) Further, consistent with the recommendations of the Project Geotechnical Investigation, native soils within building areas will be removed and replaced with compacted engineered fill, thereby reducing the already low potential for liquefaction. (*Id.*) The Project site is essentially level, and as such is not susceptible to internal landsliding. (*Id.*) Because liquefaction potential at the site is low, and the site is essentially level, the site does not exhibit conditions that would result in potential lateral spread. (*Id.*) Implementation of Mitigation Measure 4.10.2 will ensure adherence to, and provide monitoring in compliance with the findings and recommendations of the Project geotechnical documents. Accordingly, potential soil stability impacts are determined to be less than significant. (DEIR pp. 4.10-13 to

4.10-14.)

c) Location on Expansive Soils Creating Substantial Risks to Life or Property

Potential Significant Impact:

The DEIR evaluated and concluded that the Project could potentially be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risk to life or property.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment.

Mitigation Measure:

4.10.3 Prior to the issuance of construction permits, and to the satisfaction of the Town, the Project Applicant shall ensure that the recommendations, performance standards and requirements established within the Project Geotechnical Investigation which address potential location on expansive soils are incorporated into Project site design and construction plans. A qualified geotechnical engineer shall be retained on-site to ensure that Project implementation is realized consistent with specifications and requirements identified in the Project Geotechnical Investigation.

Facts in Support of the Finding:

Potential impacts of the Project on Geology and Soils are discussed in detail in Section 4.10 of the Draft EIR. This impact is potentially significant but will be mitigated to a less than significant level with the implementation of Mitigation Measure 4.10.3.

As discussed in the Project Geotechnical Investigation, near-surface soils are considered to have a low to medium expansion potential. (DEIR p. 4.10-14.) These soils will be removed, and may be saturated, compacted, and reused as engineered fills within the limits of proposed grading, to a minimum depth of five feet below existing grades, or two feet below the bottom of structural footings, as detailed in the Project Geotechnical Investigation. (*Id.*) The Project Geotechnical Investigation presents further recommendations addressing soils and site conditions within the Project area, providing direction in the areas of subgrade preparations, and placement and compaction of fills. Recommendations are also provided in regard to foundations, building floor slabs, drainage, exterior concrete and masonry, and paved areas to be constructed within the Project site. Implementation of Mitigation Measure 4.10.3 will ensure adherence to, and provide monitoring in compliance with the findings and recommendations of the Project geotechnical documents. Accordingly, potential impacts related to expansive soils are determined to be less than significant. (DEIR pp. 4.10-14 to 4. 10-15.)

d) Cumulative Impacts Related to Geology and Soils

Potential Significant Impact:

Whether implementation of the proposed Project could result in significant cumulative impacts related to geology and soils.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

See Mitigation Measures 4.9.1 through 4.9.3 above.

Facts in Support of the Finding:

Potential impacts of the Project on Geology and Soils are discussed in detail in Section 4.10 of the Draft EIR. In addition, Section 5.1.1.10 of the Draft EIR discusses cumulative impacts related to geology and soils in particular. Cumulative impacts to Geology and Soils are potentially significant but can be mitigated to a less than significant level with implementation of Mitigation Measures 4.9.1 through 4.9.3 enumerated above.

The Project will incrementally increase concentrations of persons, structures, and infrastructure systems on a previously undeveloped site within an earthquake-prone region. (DEIR p. 5-32.) However, potential impacts of increased exposure to seismic effects as a result of new development were considered and determined to be less than significant with implementation of Project mitigation measures. (*Id.*) Further, potential cumulative impacts related to erosion, subsidence, shrinkage, expansion, and soil consolidation are mitigated through conformance with recommendations of the Project Geotechnical Investigation, and compliance with local, regional, State, and Federal permitting and regulatory requirements. (*Id.*) Locally and regionally, project-by-project compliance with seismic design and engineering standards, soil conservation and erosion protection is mandated through existing regulations and requirements as outlined above, thereby reducing potential cumulative geology and soils impacts within the region. (*Id.*) Accordingly, with application of proposed mitigation measures, the Project's potential contribution to cumulative impacts in regard to geology and soils is not considerable, and the cumulative effects of the Project are determined to be less than significant. (*Id.*)

C. IMPACTS ANALYZED IN THE EIR AND DETERMINED TO BE SIGNIFICANT AND UNAVOIDABLE

The following adverse impacts of the Project stated below are considered to be significant and unavoidable, based upon information in the EIR and in the administrative record.

1. Traffic and Circulation

a) Horizon Year (2030) – Potential Intersection Impacts

Significant Unavoidable Impact:

The EIR evaluated and concluded that Project implementation, with Horizon Year traffic conditions, will result in an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system. Specifically, the Project will result in a substantial increase in either the number of vehicle trips, the volume to capacity ratios on roads or freeways, or congestion at intersections; exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highway even after implementation of all available and feasible mitigation measures.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. Those changes or alterations are within the

responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency. Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or alternatives identified in the EIR, and overriding economic, legal, social, technological, or other benefits of the Project outweigh the significant effects on the environment.

Mitigation Measures:

See Mitigation Measures 4.2.1 to 4.2.8, above.

Facts in Support of the Finding:

Potential impacts of the Project on Traffic and Circulation are discussed in detail in Section 4.2 of the EIR. The Project's potential impacts to Horizon Year traffic conditions at the intersections of D Street at Hesperia Road, and D Street at 7th Street will remain significant notwithstanding imposition of Mitigation Measures 4.2.1 to 4.2.8 above because the mitigation of the identified impact is within the responsibility and jurisdiction of another public agency.

Under Horizon Year (2030) conditions, the following intersections are anticipated to operate at and unacceptable LOS: (1) Dale Evans Parkway at Thunderbird Road; (2) Thunderbird Road at Navajo Road; (3) Happy Trails Highway at Standing Rock Road; (4) Rancherias Road at Thunderbird Road; (5) Happy Trails Highway at Corwin Road; (6) Happy Trails Highway at Rimrock Road; (7) Happy Trails Highway at Apple Valley Road; (8) D Street at Hesperia Road; and (9) D Street at 7th Street. (DEIR pp. 4.2-3 3 to 4.2-3 6; Tables 4.2-11 and 4.2-12.) With implementation of Mitigation Measures 4.2.1 to 4.2.8, seven of the intersections are projected to operate at a satisfactory LOS. (DEIR pp. 4.2-41 to 4.2-46; Table 4.2-14.) However, notwithstanding these mitigation measures, Project-related impacts to the intersections of D Street at Hesperia Road, and D Street at 7th Street will not be mitigated to less than a significant level. The intersection of D Street at Hesperia Road is jointly controlled by Caltrans and the City of Victorville. (DEIR 4.2-45.) Although the DEIR identifies improvements necessary to achieve an acceptable LOS at this intersection, there are no feasible mechanisms that would allow for the Project to implement and/or pay fees toward the completion of these improvements and thereby reduce this impact below significance levels. (DEIR p. 4.2-45.) The intersection of D Street at 7th Street is also jointly controlled by Caltrans and the City of Victorville. (DEIR pp. 4.2-45 and 4.2-46.) The DEIR identifies improvements necessary to achieve an acceptable LOS at this intersection, but no identified programs or plans exist to ensure timely and successful completion of the improvements, nor is it within the jurisdictional authority or purview of the Lead Agency or Developer to adopt or enforce mitigation measures requiring the construction of improvements by, or within, the City of Victorville. (DEIR p. 4.2-46.) Furthermore, at this intersection demolition of existing facilities and acquisition of additional right-of-way would be required in order to accomplish construction of the recommended improvements. (*Id.*) As such, there are no feasible mitigation measures that will reduce this impact below significance thresholds. (*Id.*) Accordingly, Horizon Year impacts at the intersections of D Street at Hesperia Road, and D Street at 7th Street are determined to be significant and unavoidable.

b) Cumulative Impacts – Intersections and Roadway Segments

Significant Unavoidable Impact:

The EIR evaluated and concluded that Project implementation, with Horizon Year traffic conditions, will result in an increase in traffic which is substantial in relation to the existing traffic

load and capacity of the street system. That is, result in a substantial increase in either the number of vehicle trips, the volume to capacity ratios on roads or freeways, or congestion at intersections; exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highway even after implementation of all available and feasible mitigation measures.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency. Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or alternatives identified in the EIR, and overriding economic, legal, social, technological, or other benefits of the Project outweigh the significant effects on the environment.

Mitigation Measures:

See Mitigation Measures 4.2.1 to 4.2.8, above.

Facts in Support of the Finding:

Potential impacts of the Project on Traffic and Circulation are discussed in detail in Section 4.2 of the EIR. The Project's potential impacts to Horizon Year traffic conditions at the intersections of D Street at Hesperia Road, and D Street at 7th Street will remain significant notwithstanding imposition of Mitigation Measures 4.2.1 to 4.2.8 above because the mitigation of the identified impact is within the responsibility and jurisdiction of another public agency.

As discussed by DEIR Sections 4.2 and 5.1.1.2, deficiencies at the intersections of D Street at Hesperia Road and D Street at 7th Street could be remedied by the construction of certain improvements. (DEIR pp. 5-12 and 5-14.) However, the above- referenced intersections are jointly controlled by Caltrans and the City of Victorville. (DEIR p. 5-13.) There are no identified programs or plans existing to ensure timely and successful completion of the improvement, nor is it within the authority or purview of the Lead Agency or Project Applicant to adopt or enforce mitigation measures requiring the construction of improvements by, or within, the City of Victorville. (DEIR pp. 5-13 and 5-14.) Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments. (CEQA Guidelines § 15126.4.) Moreover, the necessary improvements at D Street at 7th Street would require the demolition of existing facilities and acquisition of additional right-of way. (DEIR p. 5-13.) As such, there are no feasible mitigation measures that will reduce the Project's contributions to traffic impacts at these intersections to levels that are less than significant. (*Id.*) Accordingly, the Project's potential contribution to cumulative impacts at intersections and roadway segments are determined to be significant.

2. Air Quality

a) Operational Air Quality Impacts—Exceedance of Regional Emissions Threshold

Significant Unavoidable Impact:

The DEIR evaluated and concluded that Project-related operational emissions could potentially violate an air quality standard, and/or contribute substantially to an existing or projected air quality violation.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or alternatives identified in the EIR, and overriding economic, legal, social, technological, or other benefits of the Project outweigh the significant effects on the environment.

Mitigation Measures:

4.3.9 Wal-Mart shall display up-to-date transit routes for the Project area in a visible and convenient location for employees and customers.

4.3.10 Wal-Mart shall provide employee lockers as a safe repository for helmets and biking gear and encourage the use of alternate transportation means.

4.3.11 All loading dock and delivery areas of the Wal-Mart shall be posted with signs informing truck drivers of the GARB regulations including the following:

- Truck drivers shall turn off engines when not in use; and*
- All diesel delivery trucks servicing the Project shall not idle more than five minutes per truck trip per day.*

4.3.12 Energy efficiencies equal, or superior to, Title 24 performance standards shall be achieved. On an aggregate basis, the Project shall realize a minimum twenty (20) percent increase in energy efficiency standards identified under Title 24.

4.3.13 Preferential parking spaces shall be allocated to ultra-low emission vehicles and alternative fueled vehicles to encourage the use of alternative fuels and ultra-low emission vehicles.

4.3.14 Project landscaping shall utilize drought-tolerant and smog-tolerant plants to ensure long-term viability and conserve water and energy.

4.3.15 Landscape plans shall include drought-resistant trees, shrubs, and groundcover within the parking lot and perimeter.

4.3.16 Project design shall incorporate light colored roofing materials that will deflect heat away from buildings and conserve energy.

4.3.17 The Project design shall provide for controls to allow the selective use of all illumination elements within the Project as an energy conservation measure.

Facts in Support of the Finding:

Project-related noise impacts are discussed in detail in Section 4.4 of the Draft EIR. This impact is potentially significant but will be reduced to the extent feasible through mitigation measures.

Mitigation Measures 4.3.9 through 4.3.17 are required of the Project and would provide for certain reductions in area-source emissions, which total an estimated 1.8 percent of total operational criteria pollutant emissions (by weight). (DEIR p. 4.3-47.) However, despite these

reductions, Project operations will result in significant and unavoidable exceedances of applicable MDAQMD annual regional thresholds for CO and PM10. (*Id.*)

b) Cumulatively Considerable Net Increase of Criteria Pollutant in a Non-Attainment Area

Significant Unavoidable Impact:

The EIR evaluated and concluded that operations of the Project would result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is in non-attainment under an applicable federal or State ambient air quality standard.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or alternatives identified in the EIR, and overriding economic, legal, social, technological, or other benefits of the Project outweigh the significant effects on the environment.

Mitigation Measures:

See Mitigation Measures 4.3.9 to 4.3.17, above.

Facts in Support of the Finding:

Potential impacts of the Project on Air Quality are discussed in detail in Section 4.3 of the EIR. This impact is potentially significant but will be reduced to the extent feasible through mitigation measures.

Even though localized concentrations of all criteria pollutants show that the Project will not result in high concentrations of air pollutants, the fact that the Project generates long-term emissions of PM₁₀ in excess of the MDAQMD regional thresholds indicates that the Project is significant on an individual basis and may contribute to cumulatively significant PM₁₀ air quality impacts within a PM10 non-attainment area. (DEIR p. 4.3-52.) Operational PM₁₀ emissions are reduced to the extent feasible through compliance with established rules and regulations and application of Mitigation Measures 4.3.9 through 4.3.17. However, Project operational PM₁₀ emissions will still exceed applicable MDAQMD regional thresholds. (*Id.*) Project exceedance of PM₁₀ emissions thresholds, in combination with PM₁₀ emissions generated by other sources affecting the non-attainment area, will result in a cumulatively considerable net increase in PM₁₀ emissions within the non-attainment area. (DEIR pp. 4.3-52 to 4.3-53.) On this basis, Project operations will result in significant and unavoidable cumulatively considerable net increase of criteria pollutant in a non- attainment area.

c) Cumulative Air Quality Impacts—Operational Air Pollutants

Significant Unavoidable Impact:

The EIR evaluated and concluded that operations of the Project would result in a cumulatively significant increase in CO and PM₁₀ emissions levels on a regional basis.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. Specific economic, legal, social,

technological, or other considerations make infeasible the mitigation measures or alternatives identified in the EIR, and overriding economic, legal, social, technological, or other benefits of the Project outweigh the significant effects on the environment.

Mitigation Measures:

See Mitigation Measures 4.3.9 to 4.3.17, above.

Facts in Support of the Finding:

Potential impacts of the Project on Air Quality are discussed in detail in Section 4.3 of the Draft EIR. Furthermore, Section 5.1.1.3 of the EIR discusses cumulative impacts related to air quality in particular. This impact is potentially significant but will be reduced to the extent feasible through mitigation measures. Mitigation Measures 4.3.1 to 4.4.17, enumerated above. Notwithstanding, the Project's operational Air Quality impacts will remain cumulatively significant and unavoidable due to regional increases in PM₁₀ and CO emissions.

Operations of the Project will result in long-term increases in CO and PM₁₀ emissions levels which would exceed applicable MDAQMD regional thresholds. (DEIR p. 5-16.) Compliance with existing regulations and application of Mitigation Measures 4.3.1 through 4.3.17 will act to minimize the CO and PM₁₀ operational pollutant emissions levels. (*Id.*) However, no feasible mitigation measures exist which would reduce these impacts to levels that are less-than-significant. (*Id.*) As Project-specific operational emissions impacts (CO and PM₁₀) are determined to be significant, cumulative impacts in these regards are similarly considered to be significant. CO and PM₁₀ emissions regional threshold exceedances resulting from long-term operations of the Project are determined to be individually and cumulatively significant. (*Id.*) Additionally, the Project site lies within a non-attainment area for PM₁₀. The proposed Mitigation Measures listed above will reduce Project-related PM₁₀ emissions to the extent feasible. However, even after application of all feasible mitigation measures, the Project's operational PM₁₀ exceedances, in combination with PM₁₀ emissions generated by other sources affecting the non-attainment area, will result in a cumulatively considerable net increase of these pollutants within the PM₁₀ non-attainment area. (*Id.*) This is a cumulatively significant air impact. On this basis, Project operations will result in significant and unavoidable cumulative operational Air Quality impacts.

3. Noise

a) Construction Source Noise

Significant Unavoidable Impact:

The EIR evaluated and concluded that Project construction activities and associated noise would result in exposure of persons to, or generation of, noise levels in excess of standards established in the Town's General Plan or Noise Ordinance.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or alternatives identified in the EIR, and overriding economic, legal, social, technological, or other benefits of the Project outweigh the significant effects on the environment.

Mitigation Measures:

4.4.1 *In order to minimize the effects of construction noise on nearby receptors, the Project's masonry sound wall shall be constructed at the earliest feasible date.*

4.4.2 *All construction equipment shall be equipped with noise control features including but not limited to: state-of-the-art mufflers, silencers, shields, shrouds, ducts, and engine enclosures.*

4.4.3 *"Fixed or relatively immobile noise-producing construction activities such as loading, staging, and prefabrication areas, as well as stationary construction equipment such as concrete mixers, table saws, etc., shall be located a minimum of 530 feet from the property line shared with the nearest residential property, and shall be located a minimum of 140 feet from the property line shared with the Town Hall facilities complex property. Construction equipment noise sources shall be oriented generally north/northwest so as to direct noise away from residential and Town Hall receptors.*

Facts in Support of the Finding:

Project-related mobile source noise impacts are discussed in detail in Section 4.4 of the Draft EIR. This impact is potentially significant but will be reduced to the extent feasible through Mitigation Measures 4.4.1 to 4.4.3, set forth above. Nevertheless, the Project's potential construction noise impacts will remain significant and unavoidable.

While the mitigation measures above will reduce construction noise to the extent feasible, it is anticipated that construction noise received at adjacent properties may temporarily and periodically range from 75 to 85 dBA, exceeding Town of Apple Valley Noise Ordinance Standards for affected residential receptors; and if exceeding 85 dBA, could also exceed acceptable noise levels at the Town Hall Facilities and adjacent commercial property. (DEIR pp. 4.4-21 and 4.4-22.) As such, Project construction activities would result in a substantial temporary and periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project. (DEIR p. 4.4-22.) It is also recognized, however, that Project construction noise, will be temporary and intermittent. The highest noise levels will occur during Project grading activities as tractors or similar heavy equipment traverse the site and equipment such as backhoes are employed in footings for walls to be constructed along the Project site southerly/southeasterly boundaries. These noise levels will tend to diminish as the use of heavy equipment in the early construction stages concludes, and will dissipate entirely at the end of construction activities. (DEIR pp. 4.4-22.) Nevertheless, based on the foregoing, the Project's construction source noise impacts are determined to be significant and unavoidable.

b) Vibration—Groundborne Noise

Significant Unavoidable Impact:

The EIR evaluated and concluded that the proposed Project would result in the exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or alternatives identified in the EIR, and overriding economic, legal, social, technological, or other benefits of

the Project outweigh the significant effects on the environment.

Mitigation Measure:

See Mitigation Measure 4.4.3, above.

Facts in Support of the Finding:

Project-related vibration/groundborne noise impacts are discussed in detail in Section 4.4 of the Draft EIR. This impact is potentially significant but will be reduced to the extent feasible through the implementation of Mitigation Measure 4.4.3, set forth above. Nevertheless, the Project's vibration/groundborne noise impacts will remain significant and unavoidable.

Location and orientation of fixed or stationary construction equipment as required under Mitigation Measure 4.4.3 will reduce stationary source construction equipment vibration to levels that are less-than-significant. (DEIR p. 4.4-48.) However, it is anticipated that construction vibration received at adjacent properties may temporarily and periodically approximate 0.02 in/sec, exceeding Town of Apple Valley Vibration Standards (0.01 in/sec) for affected receptors. (*Id.*) As such, Project mobile construction activities may temporarily and intermittently result in exposure of persons to excessive groundborne vibration. The highest vibration levels will occur during Project grading activities as tractors or similar heavy equipment traverse the site and equipment such as backhoes are employed in footings for walls to be constructed along the Project site southerly/southeasterly boundaries. (*Id.*) These vibration levels will tend to diminish as the use of heavy equipment in the early construction stages concludes, and will dissipate entirely at the end of construction activities. (*Id.*) Nevertheless, based on the foregoing, the Project's vibration/groundborne noise impacts are determined to be significant and unavoidable.

c) Cumulative Impacts Related to Noise

Significant Unavoidable Impact:

The EIR evaluated and concluded that Project construction activities would result in a cumulatively significant temporary or periodic increase in ambient noise levels in the Project vicinity.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or alternatives identified in the EIR, and overriding economic, legal, social, technological, or other benefits of the Project outweigh the significant effects on the environment.

Mitigation Measures:

See Mitigation Measures 4.4.1 to 4.4.3, above.

Facts in Support of the Finding:

Project-related noise impacts are discussed in detail in Section 4.4 of the Draft EIR. In addition, Section 5.1.1.4 of the Draft EIR discusses cumulative impacts related to noise in particular. This impact is potentially significant but will be reduced to the extent feasible through Mitigation Measures 4.4.1 to 4.4.3, enumerated above. Nevertheless, the Project's potential construction source noise impacts will remain cumulatively significant and unavoidable.

Even after compliance with applicable regulations and implementation of Mitigation Measures 4.4.1 to 4.4.3, Project construction source noise levels received at adjacent residential and Town Hall properties will represent a substantial temporary periodic increase in ambient noise conditions compared to conditions without the Project. (DEIR p. 5-19.) Furthermore, although construction noise impacts will be temporary and transient, and will dissipate entirely at the conclusion of construction activities, the noise impacts affecting these properties are recognized as individually and cumulatively significant and unavoidable. (DEIR pp. 5-21.) Based on the foregoing, the Project's cumulative noise impacts are determined to be significant and unavoidable.

D. PROJECT ALTERNATIVES

An agency need only consider "feasible" alternatives in an EIR. Public Resources Code section 21061.1 defines "feasible" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors." State CEQA Guidelines section 15364 adds "legal" considerations as another indicia of feasibility. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 565.) Project objectives also inform the determination of "feasibility." (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 401, 417.) Further, "'feasibility' under CEQA encompasses 'desirability' to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors." (*Id.*; see also *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715.) An agency need not adopt *infeasible* alternatives. (State CEQA Guidelines, § 15091, subds. (a), (b).)

Section 5.2 of the Draft EIR analyzed the following three alternatives to the Project as proposed, and evaluated these alternatives for their ability to meet the Project's goals and objectives as described in Section II(B) above. CEQA requires the EIR to include in its evaluation a No Project Alternative. (DEIR p. 5-35.) Additionally, CEQA requires an EIR to describe a range of reasonable alternatives to the Project, which would feasibly attain the basic Project objectives, but would avoid or substantially lessen any of the significant environmental effects of the proposal. (DEIR p. 5-3 3.) Thus, in order to develop a range of reasonable alternatives, the Project objectives must be considered when this Commission evaluates the alternatives.

The Project goals and objectives include the following:

- To create a new mix of uses that capitalizes on the site's location proximate to surrounding commercial/retail facilities;
- To capitalize on the site's location adjacent to Dale Evans Parkway and proximate to State Route 18 (SR- 18), to take advantage of available infrastructure, and to maximize access opportunities for the convenience of patrons;
- To provide a retail development that meets the current unmet demand for goods and services from consumers residing in the trade area and future residential developments;
- To provide a commercial retail shopping center that serves the local market area and beyond, and to attract new customers and retailers into the Town of Apple Valley;

- To provide goods and services at a local site, thereby reducing the number of trips currently being made to shop for these same goods and services outside the Town of Apple Valley;
- To provide a convenient source of grocery and food items to serve the local community;
- To provide convenience-oriented retail sale of food, beverage, and related products and convenience-oriented services to the currently underserved area;
- To co-locate complementary banking and financial services within the Project site;
- Improve and maximize economic viability of the currently vacant and underutilized Project site and area through the establishment of a new commercial center;
- Maximize and broaden the Town's sales tax base by providing local and regional tax-generating uses and by increasing property tax revenues;
- Expand and provide new retail options, with updated, modern and energy efficient buildings, proximate to local consumers by providing daytime and nighttime shopping opportunities in a safe and secure environment;
- Create additional employment-generating opportunities for the citizens of Apple Valley and the surrounding communities; and
- Provide (where necessary) adequate infrastructure and public amenities. (DEIR pp. 3-4 and 3-5.)

As explained in greater detail below, the Planning Commission rejects all of the alternatives and chooses to adopt the project because all of the alternatives are infeasible.

1. No Project Alternative

The No Project Alternative is considered to be equivalent to a "No Build" scenario. (DEIR p. 5-35.) The No Project Alternative assumes continuing use of the subject site in its currently undeveloped state. (*Id.*) Under the No Project Alternative, potential impacts would be reduced when compared to the Project and the Project's significant and unavoidable air quality impacts, traffic impacts and construction noise impacts would not occur. (DEIR pp. 5-47 to 5-61.)

Finding:

Based on the entire record, this Commission finds that the No Project Alternative would not fulfill any of the Project objectives identified in Section II(B) above. Because the No Project Alternative will not fulfill any of the Project objectives and therefore is determined to be infeasible. This alternative is rejected.

2. Alternative Site Alternative

The DEIR analyzed a commercially-designated property located at the northeasterly corner of Central Road at SR- 18, as a potentially feasible Alternative Site for the project. (DEIR p. 5-37; Figure 5.1-1.) As with the Project, the Alternative Site Alternative would result in less than significant impacts in the following areas: Land Use; Operational Noise; Public Services/Utilities; Hydrology/Water Quality Impacts; Water Supply; Biological Resources; Cultural Resources; and Geology/Soils. (DEIR pp. 5-47 to 5-60.) Under this alternative, the

types and levels of noise generated by construction would be similar to the Project; however, potential impacts to offsite uses, including temporarily significant noise impacts occurring at the Project site, would likely be reduced due to its proximity to less sensitive commercial land uses compared to residential uses adjacent to the Project site. (DEIR p. 5-53.) Further, similar to the Project, traffic impacts would be considered significant under the Alternative Site Alternative. (DEIR pp. 5-50 to 5-51.) Additionally, development of the Alternative Site Alternative would similarly result in significant, unavoidable air quality impacts due to similar amount of emissions into the air basin.

Finding:

Based on the entire record, this Commission finds that many of the stated Project objectives identified in Section II(B) above could be achieved under the Alternative Site Alternative. (DEIR p. 5-5 9.) This alternative would fail to achieve the objectives specifically related to advantages of the project site, however. Therefore, the Commission finds that this alternative is not “desirable” and so is infeasible. Further, no substantive reduction in environmental impacts would be achieved through relocation of the Project. (*Id.*) Accordingly, this alternative is rejected as infeasible because it does not avoid or substantially reduce identified significant environmental impacts. (*Id.*)

3. Reduced Intensity Alternative

The Reduced Intensity Alternative assumes elimination of all of the Project's outpad uses, leaving the site's major Wal-Mart tenant intact. (DEIR p. 5-45.) Based on its seven (7) percent reduction in development intensity, the Reduced Intensity Alternative would generally result in proportionately reduced environmental impacts. Similar to the Project, the Reduced Intensity Alternative would result in less than significant impacts in the following areas: Land Use; Operational Noise; Public Services/Utilities; Hydrology/Water Quality Impacts; Water Supply; Biological Resources; Cultural Resources; and Geology/Soils. (DEIR pp. 5-47 to 5-60.) Under this alternative, significant traffic impacts would occur as with the Project, though the volumes of traffic distributed to the affected locations would be reduced. (DEIR p. 5-51.) Similar to the Project, it is likely that the Reduced Intensity Alternative would result in temporarily significant construction noise impacts affecting the adjacent properties. (DEIR p. 5-54.)

Finding:

Based on the entire record, this Commission finds that although the Reduced Intensity Alternative would proportionately reduce Project impacts, it would not avoid or substantially reduce significant and unavoidable Project-related impacts. Furthermore, while this alternative would generally realize the stated Project objectives, the seven (7) percent reduction in Project scope would:

- 1) Reduce the scope and variety commercial/retail uses at the subject property, and would minimize the effective use of commercial property at the Dale Evans/SR-18 regional commercial hub. The noted reduction in scope would also restrict potential synergy between uses at this location and along the Dale Evans commercial corridor;
- 2) Minimize effective use of commercial property located in the vicinity of Dale Evans Parkway and proximate to State Route 18 (SR-18). This is considered a premier commercial location due to its visibility from, and access to, adjacent major thoroughfares (SR-18, Dale Evans Parkway). The noted reduction in scope would similarly not take full advantage of existing and proposed infrastructure available to the Project site. Access to the site under the Project or the Reduced Intensity Alternative will be maximized through its location proximate to major roadways as noted above, provision of appropriate roadway and traffic control improvements, implementation of bus stop facilities at the Project site, and construction of internal and perimeter pedestrian walkways;
- 3) Similarly reduce the capacity to satisfy existing and projected unmet market demands within the trade area as discussed in detail within the Project and Cumulative Economic Impact Analyses (EIR Appendix B);
- 4) Reduce the variety and scope of products and services which may otherwise attract new customers to the trade area;
- 5) Restrict locally available commercial/retail opportunities, and would tend to reduce trip capture within the trade area. The trips made for shopping opportunities to points outside the trade area would also tend to be of greater distances;
- 6) Curtail the range and variety of available convenience-oriented services as a result of the elimination of outpad fast food restaurants, smaller retail facilities, and bank services;
- 7) Eliminate the proposed outpad banking and financial service use, and as a consequent preclude collocation of complementary banking and financial services within the Project site;
- 8) Reduce potential economic viability of the Project by reducing the scope and variety of available goods and services. Moreover, as noted previously, this reduction in scope and variety of would minimize the effective use of commercial property at the Dale Evans/SR-18 regional commercial hub. The noted reduction in scope and would also restrict potential synergy between uses at this location and along the Dale Evans commercial corridor, acting to reduce the economic viability of this Project and other proximate retail/commercial uses;
- 9) Result in proportionate reductions in sales and sales tax revenues. Moreover, the remaining undeveloped portion(s) of the subject site would not realize any substantive increase in property value or property tax

- revenue; and
- 10) Likely result in a reduction in potential employment opportunities as compared to the Project. (DEIR pp. 5-63 to 5-66.)

Thus, for the foregoing reasons, the Reduced Intensity Alternative is less “desirable” than the proposed Project and is rejected as infeasible on that basis. Additionally, the Reduced Intensity Alternative is rejected as infeasible because it does not avoid or substantially reduce identified significant environmental impacts.

4. Environmentally Superior Alternative

The determination of an environmentally superior alternative is based on the consideration of how the alternative fulfills the project objectives and how the alternative either reduces significant, unavoidable impacts or substantially reduces the impacts to the surrounding environment. Based on estimated reductions in traffic generation, associated air pollutant reductions, and generalized reductions in other environmental effects, the Reduced Intensity Alternative would result in the greatest reduction in environmental impacts when compared to the Project. The Reduced Intensity Alternative would also, to a limited degree, realize attainment of the basic Project Objectives. On this basis, and for the purposes of CEQA and the EIR Alternative Analysis, the Reduced Intensity Alternative is identified as the environmentally superior alternative. (DEIR p. 5-66.) It is noted however, that significant traffic impacts, temporarily significant construction noise impacts and air quality impacts occurring under the Project would also occur under the Reduced Intensity Alternative, though the extent of the impacts and associated mitigation may be reduced. Under either the Project or the Reduced Intensity Alternative, all other environmental impacts are determined to be less than significant, or can be successfully mitigated below thresholds. (DEIR p. 5-67.)

E. GROWTH INDUCING IMPACTS

CEQA requires a discussion of ways in which a Project could be growth inducing. This topic is discussed in Section 5.3 of the Draft EIR. The CEQA Guidelines, specifically Section 15 126.2(d), identify a Project as growth inducing if it would foster economic or population growth, or the construction of additional housing either directly (such as by proposing new homes and businesses) or indirectly (such as through extension of roads or other infrastructure) in the surrounding environment.

The Project will not directly result in any significant population growth. The estimated 400 to 600 jobs which may be created by the Project would likely be filled by the resident population, given the Town’s historically low jobs-to-housing ratio. Additionally because this project represents a relocation of the existing Apple Valley Walmart store; the majority of employees will merely be transferred from the existing store. (DEIR p. 5-69.) Further, construction employment opportunities associated with the Project may result in a temporary increase in local jobs, likely filled by Town or area residents, with no significant permanent growth-inducing effect. (*Id.*)

The Project, however, may result in indirect growth-inducing effects. Specifically, the Project’s potential economic benefits could indirectly result in employment growth in the region. (DEIR p. 5-69.) This growth, in combination with other anticipated employment growth in the region, could indirectly result in population growth and an increased demand for housing. (*Id.*) Accordingly, the Project, in combination with other planned or anticipated projects in the area, could contribute to employment and population growth which, regionally, is anticipated to be substantial. (*Id.*)

Infrastructure improvements necessitated by the implementation of the Project may facilitate and encourage development of other nearby properties. (*Id.*) However, the characteristics and intensities of development that could occur on these properties is governed by the Town's General Plan. (*Id.*) Development of these properties within the context of the approved General Plan should not result in unforeseen nor unmitigatable impacts. (*Id.*) Accordingly this Commission finds the Project's growth-inducing impacts are less than significant.

VI. STATEMENT OF OVERRIDING CONSIDERATIONS

The Apple Valley Planning Commission hereby declares that, pursuant to CEQA Guidelines Section 15093, the Planning Commission has balanced the benefits of the proposed Project against any significant and unavoidable environmental impacts in determining whether to approve the proposed Project. The Project's significant and unavoidable impacts include air quality impacts, noise impacts and traffic impacts. If the benefits of the proposed Project outweigh the unavoidable adverse environmental impacts, those impacts are considered "acceptable."

The Planning Commission hereby declares that the EIR has identified and discussed significant effects that may occur as a result of the Project. With the implementation of the mitigation measures discussed in the EIR, these impacts can be mitigated to a level of less than significant except for the unavoidable and significant impacts discussed herein. (*See also*, DEIR §5.4 "Significant Environmental Effects".)

The Planning Commission hereby declares that it has made a reasonable and good faith effort to eliminate or substantially mitigate the potential impacts resulting from the Project.

The Planning Commission hereby declares that to the extent any mitigation measures recommended to the Town are not incorporated, such mitigation measures are infeasible because they would impose restrictions on the Project that would prohibit the realization of specific economic, social, and other benefits that this Planning Commission finds outweigh the unmitigated impacts.

The Planning Commission further finds that except for the Project, all other alternatives set forth in the EIR are infeasible because they would prohibit the realization of the Project objectives and/or specific economic, social or other benefits that this Planning Commission finds outweigh any environmental benefits of the alternatives.

The Planning Commission hereby declares that, having reduced the adverse significant environmental effects of the Project, to the extent feasible by adopting the proposed mitigation measures, having considered the entire administrative record on the Project and having weighed the benefits of the Project against its unavoidable significant impact after mitigation, the Planning Commission has determined that the social, economic and environmental benefits of the Project outweigh the potential unavoidable significant impacts and render those potential significant impacts acceptable based upon the following considerations:

- The Project will create a new mix of uses that capitalizes on the site's location proximate to surrounding commercial/retail facilities;
- The Project will capitalize on the site's location adjacent to Dale Evans Parkway and proximate to State Route 18 (SR- 18), to take advantage of available

infrastructure, and to maximize access opportunities for the convenience of patrons;

- The Project will provide a retail development that meets the current unmet demand for goods and services from consumers residing in the trade area and future residential developments;
- The Project will provide a commercial retail shopping center that serves the local market area and beyond, and to attract new customers and retailers into the Town of Apple Valley;
- The Project will provide goods and services at a local site, thereby reducing the number of trips currently being made to shop for these same goods and services outside the Town of Apple Valley;
- The Project will provide a convenient source of grocery and food items to serve the local community;
- The Project will provide convenience-oriented retail sale of food, beverage, and related products and convenience-oriented services to the currently underserved area;
- The Project will improve and maximize economic viability of the currently vacant and underutilized Project site and area through the establishment of a new commercial center;
- The Project will maximize and broaden the Town's sales tax base by providing local and regional tax-generating uses and by increasing property tax revenues;
- The Project will expand and provide new retail options, with updated, modern and energy efficient buildings, proximate to local consumers by providing daytime and nighttime shopping opportunities in a safe and secure environment; and
- The Project will provide (where necessary) adequate infrastructure and public amenities.

The Commission's findings set forth in the preceding sections identified all of the adverse environmental impacts and feasible mitigation measures which can reduce impacts to less than significant levels where feasible, or to the lowest feasible levels where significant impacts remain. The findings have also analyzed three alternatives to determine whether there are reasonable or feasible alternatives to the proposed action, or whether they might reduce or eliminate the significant adverse impacts of the Project. The EIR presents evidence that implementing the development of the Project will cause significant adverse impacts which cannot be substantially mitigated to non-significant levels.

As the CEQA Lead Agency for the proposed action, the Town of Apple Valley has reviewed the Project description and the alternatives presented in the EIR, and fully understands the Project and Project alternatives proposed for development. Further, this Commission finds that all potential adverse environmental impacts and all feasible mitigation measures to reduce the impacts from the Project have been identified in the Draft EIR, the Final EIR and public testimony. This Commission also finds that a reasonable range of alternatives was considered in the EIR and this document, Section V(D) above, and finds that approval of the Project is appropriate.

This Commission has identified economic and social benefits and important policy objectives, above, which result from implementing the Project. The Commission has balanced these substantial social and economic benefits against the unavoidable significant adverse effects of

*Tentative Parcel Map No. 18095, Development Permit No. 2010-009, Conditional Use Permit No. 2005-024, Special Use Permit No. 2005-015, Variance No. 2009-001 and Sign Program No. 2005-040
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the Project. Given the substantial social and economic benefits that will accrue from the Project, this Commission finds that the benefits identified herein override the unavoidable environmental effects.

California Public Resources Code section 21002 provides: "In the event specific economic, social and other conditions make infeasible such Project alternatives or such mitigation measures, individual projects can be approved in spite of one or more significant effects thereof." Section 21002.1(c) provides: "In the event that economic, social, or other conditions make it infeasible to mitigate one or more significant effects of a project on the environment, the project may nonetheless be approved or carried out at the discretion of a public agency..." Finally, California Code of Regulations, Title 4, 15093 (a) states: "If the benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered 'acceptable.'"

The Planning Commission hereby declares that the foregoing benefits provided to the public through approval and implementation of the Project outweigh the identified significant adverse environmental impacts of the Project that cannot be mitigated. The Planning Commission finds that each of the Project benefits outweighs the unavoidable adverse environmental impacts identified in the DEIR and, therefore, finds those impacts to be acceptable.

Exhibit “B”

4.0 MITIGATION MONITORING PLAN

4.1 INTRODUCTION

To ensure that the mitigation measures contained in this EIR are properly implemented, a monitoring program has been developed pursuant to State law. This Mitigation Monitoring Plan (MMP) identifies measures incorporated in the Project which reduce its potential environmental effects; the entities responsible for implementation and monitoring of mitigation measures; and the appropriate timing for implementation of mitigation measures. As described in CEQA § 15097, this MMP employs both reporting on, and monitoring of, Project mitigation measures.

The objectives of the MMP are to:

- Assign responsibility for, and ensure proper implementation of mitigation measures;
- Assign responsibility for, and provide for monitoring and reporting of compliance with mitigation measures;
- Provide the mechanism to identify areas of noncompliance and need for enforcement action before irreversible environmental damage occurs.

Mitigation monitoring and reporting procedures incorporated in the Project are presented in the following Section 4.2. Specific mitigation measures incorporated in the Project, mitigation timing, and implementation and reporting/monitoring responsibilities are presented within this Section at Table 4.2-1.

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4.2 MITIGATION MONITORING AND REPORTING

Mitigation Monitoring and Responsibilities

As the Lead Agency, the Town of Apple Valley is responsible for ensuring full compliance with the mitigation measures adopted for the proposed Project. The Town will monitor and report on all mitigation activities. Mitigation measures will be implemented at different stages of development throughout the Project area. In this regard, the responsibilities for implementation have been assigned to the Applicant, Contractor, or a combination thereof.

If during the course of Project implementation, any of the mitigation measures identified herein cannot be successfully implemented, the Town shall be immediately informed, and the Town will then inform any affected responsible agencies. The Town, in conjunction with any affected responsible agencies, will then determine if modification to the Project is required and/or whether alternative mitigation is appropriate.

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**Table 4.2-1
 Apple Valley Shopping Center Project
 Mitigation Monitoring Plan**

Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>Land Use</p> <p>4.1.1 All proposed light standards located within 75 feet of a residential property line shall be no taller than 15 feet in height, including the support base. Light shield skirts must be used on these lights to block the view of the light source from the adjacent residential properties.</p>	Prior to issuance of first Certificate of Occupancy	Applicant	Town of Apple Valley Planning Division	Before issuance of first Certificate of Occupancy
<p>Traffic and Circulation</p> <p>4.2.1 Prior to the issuance of the first building permit within the Project site, the Project Applicant shall contribute Development Traffic Impact Fees toward the following improvements at the intersection of Happy Trails Highway (SR-18) at Apple Valley Road:</p> <ul style="list-style-type: none"> • Add one lane to the intersection's northbound approach and re-stripe to provide two left turn lanes, one through lane and one right-turn lane; and • Provide right-turn overlap phasing with westbound left-turn movements on the intersection's northbound approach (HORIZON YEAR). 	Prior to issuance of first building permit	Applicant	Town of Apple Valley Planning Division	Before issuance of first building permit
<p>4.2.2 Prior to the issuance of the first building permit within the Project site, the Project Applicant shall contribute Development Traffic Impact Fees toward the installation of stop-sign controls on all four approaches to the intersection of Flathead Road at Rancherias Road.</p>	Prior to issuance of first building permit	Applicant	Town of Apple Valley Planning Division	Before issuance of first building permit

**Table 4.2-1
 Apple Valley Shopping Center Project
 Mitigation Monitoring Plan**

Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
4.2.3 Prior to the issuance of the first building permit within the Project site, the Project Applicant shall contribute Development Traffic Impact Fees toward installation of stop-sign controls on all three approaches to the intersection of Rancherius Road at Thunderbird Road.	Prior to issuance of first building permit	Applicant	Town of Apple Valley Planning Division	Before issuance of first building permit
4.2.4 Prior to the issuance of the first building permit within the Project site, the Project Applicant shall contribute Development Traffic Impact Fees toward the provision of an additional lane in the southbound direction [HORIZON YEAR] at the intersection of Dale Evans Parkway and Thunderbird Road.	Prior to issuance of first building permit	Applicant	Town of Apple Valley Planning Division	Before issuance of first building permit
4.2.5 Prior to the issuance of the first building permit within the Project site, the Project Applicant shall contribute Development Traffic Impact Fees toward the installation of a traffic signal [HORIZON YEAR] at the intersection of Thunderbird Road at Navajo Road.	Prior to issuance of first building permit	Applicant	Town of Apple Valley Planning Division	Before issuance of first building permit
4.2.6 Prior to the issuance of the first building permit within the Project site, the Project Applicant shall contribute Development Traffic Impact Fees toward the installation of a traffic signal [HORIZON YEAR] at the intersection of Happy Trails Highway (SR-18) at Standing Rock Road.	Prior to issuance of first building permit	Applicant	Town of Apple Valley Planning Division	Before issuance of first building permit
4.2.7 Prior to the issuance of the first building permit within the Project site, the Project Applicant shall contribute Development Traffic Impact Fees toward the installation of a traffic signal [HORIZON YEAR] at the intersection of Happy Trails Highway (SR-18) at Rimrock Road.	Prior to issuance of first building permit	Applicant	Town of Apple Valley Planning Division	Before issuance of first building permit

**Table 4.2-1
 Apple Valley Shopping Center Project
 Mitigation Monitoring Plan**

Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
4.2.8 <i>Prior to the issuance of the first building permit within the Project site, the Project Applicant shall contribute Development Traffic Impact Fees toward the addition of a second left-turn lane to the eastbound approach [HORIZON YEAR] of the intersection of Happy Trails Highway (SR-18) at Corcoran Road.</i>	Prior to issuance of first building permit	Applicant	Town of Apple Valley Planning Division	Before issuance of first building permit
Air Quality				
4.3.1 <i>During grading and construction of the proposed improvements, the Project Applicant will implement all applicable Best Available Control Measures listed in Table 4, and Contingency Control Measures listed in Table 5, of the Draft EIR Appendix D, Air Quality Analysis Report, Walmart Shopping Center Project, Apple Valley, California (Chambers Group, Inc.), Revised September 2010.</i>	Ongoing throughout grading and construction activities	Contractor	Town of Apple Valley Building Official, SCAQMD	Ongoing throughout grading and construction activities
4.3.2 <i>The construction contractor shall water all active areas and any unpaved haul routes a minimum of four times daily.</i>	Ongoing throughout grading and construction activities	Contractor	Town of Apple Valley Building Official, SCAQMD	Ongoing throughout grading and construction activities
4.3.3 <i>The construction contractor shall ensure that, on unpaved roads, construction traffic speeds are reduced to 15 miles per hour.</i>	Ongoing throughout grading and construction activities	Contractor	Town of Apple Valley Building Official, SCAQMD	Ongoing throughout grading and construction activities
4.3.4 <i>The construction contractor shall ensure that soil stabilizers are applied to inactive areas.</i>	Ongoing throughout grading and construction activities	Contractor	Town of Apple Valley Building Official, SCAQMD	Ongoing throughout grading and construction activities

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**Table 4.2-1
 Apple Valley Shopping Center Project
 Mitigation Monitoring Plan**

Mitigation Measures	Implementation Entity	Mitigation Timing	Monitoring/Reporting Frequency
4.3.5 The construction contractor shall ensure that groundcover in disturbed areas is replaced as soon as possible.	Contractor	Ongoing throughout grading and construction activities	Ongoing throughout grading and construction activities
4.3.6 The construction contractor shall ensure that any materials loaded or unloaded on-site will be sufficiently watered to prevent visible plumes of dust.	Contractor	Ongoing throughout grading and construction activities	Ongoing throughout grading and construction activities
4.3.7 The construction contractor shall ensure that, where feasible, diesel particulate filters shall be used with all of the on-site construction equipment.	Contractor	Ongoing throughout grading and construction activities	Ongoing throughout grading and construction activities
4.3.8 Construction activities that result in grading or other surface disturbances shall be limited to five (5) acres per day.	Contractor	Ongoing throughout grading and construction activities	Ongoing throughout grading and construction activities
4.3.9 Walmart shall display up-to-date transit routes for the Project area in a visible and convenient location for employees and customers.	Applicant	Prior to issuance of first Certificate of Occupancy	Before issuance of first Certificate of Occupancy
4.3.10 Walmart shall provide employee lockers as a safe repository for helmets and biking gear and encourage the use of alternate transportation means.	Applicant	Prior to issuance of first Certificate of Occupancy	Before issuance of first Certificate of Occupancy
4.3.11 All loading dock and delivery areas of the Walmart shall be posted with signs informing truck drivers of the CARB regulations including the following: <ul style="list-style-type: none"> Truck drivers shall turn off engines when not in use; and All diesel delivery trucks servicing the Project shall not idle more than five minutes per truck trip per day. 	Applicant	Prior to issuance of first building permit	Before issuance of first building permit

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**Table 4.2-1
 Apple Valley Shopping Center Project
 Mitigation Monitoring Plan**

Mitigation Measures	Implementation Entity	Mitigation Timing	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
4.3.12 Energy efficiencies equal, or superior to, Title 24 performance standards shall be achieved. On an aggregate basis, the Project shall realize a minimum twenty (20) percent increase in energy efficiency standards identified under Title 24.	Applicant	Prior to issuance of first building permit	Town of Apple Valley Planning Division	Before issuance of first building permit
4.3.13 Preferential parking spaces shall be allocated to ultra-low emission vehicles and alternative fueled vehicles to encourage the use of alternative fuels and ultra-low emission vehicles.	Applicant	Prior to issuance of first Certificate of Occupancy	Town of Apple Valley Planning Division	Before issuance of first Certificate of Occupancy
4.3.14 Project landscaping shall utilize drought-tolerant and smog-tolerant plants to ensure long-term viability and conserve water and energy.	Applicant	Prior to issuance of first Certificate of Occupancy	Town of Apple Valley Planning Division	Before issuance of first Certificate of Occupancy
4.3.15 Landscape plans shall include drought-resistant trees, shrubs, and groundcover within the parking lot and perimeter.	Applicant	Prior to issuance of first Certificate of Occupancy	Town of Apple Valley Planning Division	Before issuance of first Certificate of Occupancy
4.3.16 Project design shall incorporate light colored roofing materials that will deflect heat away from buildings and conserve energy.	Applicant	Prior to issuance of first Certificate of Occupancy	Town of Apple Valley Planning Division	Before issuance of first Certificate of Occupancy
4.3.17 The Project design shall provide for controls to allow the selective use of all illumination elements within the Project as an energy conservation measure.	Applicant	Prior to issuance of first Certificate of Occupancy	Town of Apple Valley Planning Division	Before issuance of first Certificate of Occupancy
4.4 Noise				
4.4.1 In order to minimize the effects of construction noise on nearby receptors, the Project's masonry sound wall (please refer to the	Applicant	Prior to issuance of first building permit	Town of Apple Valley Planning Division	Before issuance of first building permit

**Table 4.2-1
 Apple Valley Shopping Center Project
 Mitigation Monitoring Plan**

Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>following Mitigation Measure 4.4.4) shall be erected prior to the issuance of any permits to construct onsite buildings.</p> <p>4.4.2 All construction equipment shall be equipped with noise control features including but not limited to: state-of-the-art mufflers, silencers, shields, shrouds, ducts, and engine enclosures.</p> <p>4.4.3 "Fixed" or relatively immobile noise-producing construction activities such as loading, staging, and prefabrication areas, as well as stationary construction equipment such as concrete mixers, table saws, etc., shall be located a minimum of 530 feet from the property line shared with the nearest residential property, and shall be located a minimum of 140 feet from the property line shared with the Town Hall facilities complex property. Construction equipment noise sources shall be oriented generally north/northeast so as to direct noise away from residential and Town Hall receptors.</p> <p>4.4.4 Immediately following the completion of rough grading, a noise barrier with a minimum height of ten (10) feet (measured relative to the grade elevation of the adjacent driveway or the adjacent residential properties, whichever is greater) shall be constructed along the entire southeast property line of the Project site. This barrier shall be a continuous structure without gaps or gates. Along the Project boundaries adjacent to residential properties, the noise barrier will be constructed on a two-foot berm. The noise barrier shall be constructed to either: (a) provide a minimum surface density of four (4) pounds per square foot, and be lined with sound absorptive panels on the side facing the Project site; or (b) use sound absorptive masonry blocks (e.g., SoundBloc) to provide an equivalent degree of noise protection.</p>	<p>Ongoing throughout grading and construction activities</p> <p>Ongoing throughout grading and construction activities</p> <p>Prior to issuance of first grading or building permit.</p>	<p>Contractor</p> <p>Contractor</p> <p>Applicant</p>	<p>Town of Apple Valley Building Official</p> <p>Town of Apple Valley Building Official</p> <p>Town of Apple Valley Planning Division</p>	<p>Ongoing throughout grading and construction activities</p> <p>Ongoing throughout grading and construction activities</p> <p>Prior to issuance of first grading or building permit.</p>

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**Table 4.2-1
 Apple Valley Shopping Center Project
 Mitigation Monitoring Plan**

Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
4.4.5 The following activities shall be limited to the hours between 7:00 a.m. and 10:00 p.m.: truck deliveries, loading dock activities, trash pickups, forklift operations, and use of outdoor public address system(s). Project tenants shall be provided written notice of these requirements and limitations by the Applicant or his designer. Copies of such notification shall be provided to the Lead Agency.	Prior to issuance of first Certificate of Occupancy.	Applicant	Town of Apple Valley Planning Division	Prior to issuance of first Certificate of Occupancy.
4.4.6 Delivery trucks shall not be permitted to idle in the parking lots or loading areas, and shall be required to have properly maintained, factory-approved mufflers. Delivery truck drivers shall minimize acceleration and maintain reduced vehicle speeds while onsite. Project tenants shall be provided written notice of these requirements by the Applicant or designer, and these requirements shall be incorporated as part of the delivery services contract documentation, and/or shall be provided and recognized separately. Copies of such notification shall be provided to the Lead Agency.	Prior to issuance of first building permit.	Applicant	Town of Apple Valley Planning Division	Prior to issuance of first building permit.
4.4.7 Between 10:00 p.m. and 7:00 a.m. trash shall not be dumped into the outdoor trash bins, and the trash compactor at Parcel 1 shall not be used. Carts used to transport trash to the outdoor bins shall have large-diameter rubber wheels to minimize noise. Project tenants shall be provided written notice of this requirement by the Applicant or his designer. Copies of such notification shall be provided to the Lead Agency. To the satisfaction of the Town, signage indicating these restrictions and requirements shall be placed on the trash compactors and compactor bins prior to the issuance of occupancy permits.	Prior to issuance of first Certificate of Occupancy.	Applicant	Town of Apple Valley Planning Division	Prior to issuance of first Certificate of Occupancy.

**Table 4.2-1
 Apple Valley Shopping Center Project
 Mitigation Monitoring Plan**

Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
4.4.8 All forklifts to be used at the major anchors shall be electric. Project tenants shall be provided written notice of this requirement by the Applicant or his designee. Copies of such notification shall be provided to the Lead Agency.	Prior to issuance of first Certificate of Occupancy.	Applicant	Town of Apple Valley Planning Division	Prior to issuance of first Certificate of Occupancy.
4.4.9 Walmart's internal policies and procedures shall require that exterior doors, including any loading dock doors, on the south, east, and west elevations of buildings shall be kept closed when not in use, and to ensure that employee shouting and the use of radios is minimized when loading dock doors are open. Employees shall be provided written notice of these requirements by the Applicant or his designee. Copies of such notification shall be provided to the Lead Agency.	Prior to issuance of first Certificate of Occupancy.	Applicant	Town of Apple Valley Planning Division	Prior to issuance of first Certificate of Occupancy.

Hydrology and Water Quality

No mitigation measures are necessary. However, the following mitigation measures have been developed to further ensure that Project storm water basins are designed consistent with Town policies.

4.7.1 The implementation of four (4) on-site retention basins, within the property boundaries, will mitigate increasing flow downstream and applicable Town of Apple Valley development standards/conditions of approval, including grading compatibility review per Section 3319 of the Town of Apple Valley Municipal Code. Alternative detention basin designs will address the protection of public health and safety as the first priority and aesthetics (environmentally sensitive design) as a second priority.

Table 4.2-1
 Apple Valley Shopping Center Project
 Mitigation Monitoring Plan

Mitigation Measures	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>4.7.2 Retention basins shall incorporate environmentally sensitive and park-like designs where practical and feasible and shall be reviewed and approved by the Town Engineer. This process will comply with the Town of Apple Valley General Plan Policies and Development Code Requirements.</p>	Applicant	Town of Apple Valley Planning Division	Prior to issuance of first grading or building permit.
<p>4.8 Biological Resources</p> <p>4.8.1 A preconstruction presence/absence survey will be required within 30 days prior to disturbance to determine the current presence of burrowing owls. If any active nests are found on-site during the preconstruction survey, an informal consultation and the development of a Mitigation Plan with California Department Fish & Game (CDFG) will be required.</p> <p>If occupied burrows are found, occupied burrows shall be avoided as recommended by the Burrowing Owl Survey Protocol and Mitigation Guidelines, consisting of maintaining a 75-meter radius protective buffer during the breeding season (February 1 through August 31). Mitigation may consist of passively excluding the owls from their burrow during the non-breeding season, using methods specific in the Guidelines in coordination with CDFG. Any mitigation, including the purchase of off-site mitigation land, shall be part of the Mitigation Plan that shall be submitted to and approved by CDFG prior to project grading including passive relocation methods and the location and acreage of proposed off-site mitigation land.</p>	Applicant	Town of Apple Valley Planning Division	Prior to issuance of first grading permit.
<p>4.8.2 All initial ground disturbing activities shall be limited to the time period between September 1 and February 1. If initial Project-</p>	Applicant	Town of Apple Valley Planning Division	Prior to issuance of first grading permit.

**Table 4.2-1
 Apple Valley Shopping Center Project
 Mitigation Monitoring Plan**

Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p><i>specific site disturbance, grading and vegetation removal cannot be conducted during this time period, pre-construction surveys for active nests within the limits of the Project shall be conducted by a qualified biologist. These surveys shall be conducted two weeks prior to any construction activities.</i></p>				
<p>4.8.3 <i>If active nests or roosts are located, then all construction work must be conducted outside an established non-disturbance buffer zone at a distance established in consultation with the CDFG. No direct disturbance to nests shall occur until the young are no longer reliant on the nest site as determined by a qualified biologist. The approved biologist shall conduct monitoring of the nest until all young have fledged.</i></p>	Prior to issuance of first building permit.	Applicant	Town of Apple Valley Planning Division	Prior to issuance of first building permit.
<p>4.8.4 <i>If more than 30 days has elapsed between owl eviction and completion of clearing and grubbing activities, a subsequent survey for the burrowing owl shall be conducted to ensure that owls have not re-populated the site. Any reoccupation by owls will require subsequent protocol active eviction.</i></p>	Prior to issuance of first grading permit.	Applicant	Town of Apple Valley Planning Division	Prior to issuance of first grading permit.
<p>4.8.5 <i>Limits of the Project site shall be clearly marked by stakes or other means to ensure that off-site areas are not disturbed by Project construction activities.</i></p>	Prior to issuance of first grading permit.	Applicant	Town of Apple Valley Planning Division	Prior to issuance of first grading permit.

No mitigation measures are necessary to prevent conflicts with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. However, the following mitigation measure has been developed to further ensure consistency with Town policies.

**Table 4.2-1
 Apple Valley Shopping Center Project
 Mitigation Monitoring Plan**

Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
4.8.6 Consistent with the Town of Apple Valley Joshua Tree Ordinance, salvageable on-site Joshua trees will be relocated within the Project site or made available for adoption through the Town's Preservation and Adoption Program.	Prior to issuance of first grading permit.	Applicant	Town of Apple Valley Planning Division	Prior to issuance of first grading permit.
4.9 Cultural Resources				
4.9.1 A professional archaeological monitor (Project Archaeological Monitor) shall conduct full-time monitoring of site excavation and grading activities. The monitor shall be equipped to salvage and record the location of archaeological and/or historic resources as they may be unearthed to avoid construction delays. The monitor shall be empowered to temporarily halt or divert equipment to allow removal of abundant or large specimens or finds and to allow the preparation of recovered resources to a point of identification. With the exception of significant Native American resources that may be returned to a Tribe, all recovered resources shall then be curated in an established, accredited museum repository with permanent retrievable archaeological/historic resource storage. A report of findings shall also be prepared by the Project Archaeological Monitor, and shall include an itemized inventory of any specimens recovered. The report and confirmation of curration of any recovered resources from an accredited museum repository shall signify completion of the program to mitigate impacts to archaeological/historic resource resources. If disturbed resources are required to be collected and preserved, the applicant shall be required to participate financially up to the limits imposed by Public Resources Code Section 21083.2.	Prior to issuance of first grading permit.	Applicant	Town of Apple Valley Planning Division	Prior to issuance of first grading permit.

**Table 4.2-1
 Apple Valley Shopping Center Project
 Mitigation Monitoring Plan**

Mitigation Measures	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p>4.9.2 A professional paleontological monitor (Project Paleontological Monitor) shall conduct full-time monitoring of site excavation and grading activities. The paleontological monitor shall be equipped to salvage and record the location of paleontologic and/or fossil resources as they may be unearthed to avoid construction delays. The Project Paleontological Monitor shall be empowered to temporarily halt or divert equipment to allow removal of abundant or large specimens or finds and to allow the preparation of recovered resources to a point of identification. All recovered specimens shall then be curated in an established, accredited museum repository with permanent retrievable-paleontologic storage. A report of findings shall also be prepared by the Project Paleontological Monitor, and shall include an itemized inventory of any specimens recovered. The report and confirmation of curation of any recovered specimens from an accredited museum repository shall signify completion of the program to mitigate impacts to paleontologic resources.</p>	Applicant	Town of Apple Valley Planning Division	Prior to issuance of first grading permit.
<p>4.10 Geology and Soils</p> <p>4.10.1 Prior to the issuance of construction permits, and to the satisfaction of the Town, the Project Applicant shall ensure that the recommendations, performance standards, and requirements established within the Project Geotechnical Investigation which address: exposure of people or structures to potentially substantial adverse effects of strong seismic ground shaking or seismic-related ground failure (including liquefaction) are incorporated into Project site design and construction plans. A qualified geotechnical engineer shall be retained on-site to ensure that Project implementation is realized consistent with specifications and requirements identified in the Project Geotechnical Investigation.</p>	Applicant	Town of Apple Valley Planning Division	Prior to issuance of first grading permit.

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**Table 4.2-1
 Apple Valley Shopping Center Project
 Mitigation Monitoring Plan**

Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
4.10.2 Prior to the issuance of construction permits, and to the satisfaction of the Town, the Project Applicant shall ensure that the recommendations, performance standards, and requirements established within the Project Geotechnical Investigation which address potential location on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project, are incorporated into Project site design and construction plans. A qualified geotechnical engineer shall be retained on-site to ensure that Project implementation is realized consistent with specifications and requirements identified in the Project Geotechnical Investigation.	Prior to issuance of first grading permit.	Applicant	Town of Apple Valley Planning Division	Prior to issuance of first grading permit.
4.10.3 Prior to the issuance of construction permits, and to the satisfaction of the Town, the Project Applicant shall ensure that the recommendations, performance standards and requirements established within the Project Geotechnical Investigation which address potential location on expansive soils are incorporated into Project site design and construction plans. A qualified geotechnical engineer shall be retained on-site to ensure that Project implementation is realized consistent with specifications and requirements identified in the Project Geotechnical Investigation.	Prior to issuance of first grading permit.	Applicant	Town of Apple Valley Planning Division	Prior to issuance of first grading permit.



TOWN OF APPLE VALLEY PLANNING COMMISSION

Staff Report

AGENDA DATE: December 15, 2010

CASE NUMBER: Tentative Parcel Map No. 18095, Development Permit No. 2010-009, Conditional Use Permit No. 2005-024, Special Use Permit No. 2005-015, Variance No. 2009-001 and Sign Program No. 2005-040

APPLICANT: Tait & Associates, representatives for Walmart

PROPOSAL: Tentative Parcel Map No. 18095: A request to subdivide thirty (30) acres into five (5) separate parcels ranging in size from 0.66 acres to 25.22 acres. The subdivision will facilitate the development of a proposed Walmart Super Center building and four (4) additional retail pads within the overall project.

Development Permit No. 2010-009: The project requires approval of a Development Permit for the construction of a 227,034 square foot Walmart Super Center building that, in addition to groceries and general merchandise, will provide a complete garden center and a Tire-Lube Express automotive service center. The development also includes four (4) separate stand-alone buildings with an additional 19,000 square feet of commercial space. The 246,034 square foot commercial center will include paved parking, landscaping, fencing and lighting.

Conditional Use Permit No. 2005-024: The project requires approval of a Conditional Use Permit to operate the Tire-Lube Express automotive service center and for outdoor display of seasonal merchandise in front of the Walmart Super Center building.

Special Use Permit No. 2005-015: Three (3) of the proposed pad buildings are planned for drive-through uses. Drive-through facilities require the review and approval of a Special Use Permit.

Variance No. 2009-001: The variance is a request to construct a perimeter wall that will exceed the maximum allowable height of six (6) feet. The proposed screen/sound attenuation wall will consist of a ten (10)-foot high wall built upon on a two (2)-foot high berm along the northeast and southeast perimeter of the project site.

Sign Program No. 2005-040: A request for a master sign program to establish criteria for freestanding pylon, monument, building and other signage and to create a cohesive and attractive identity for the commercial center and individual tenants.

**ENVIRONMENTAL
DETERMINATION:**

The proposed project may have a significant effect on the environment; therefore, an Environmental Impact Report (EIR) has been prepared in compliance with the California Environmental Quality Act (CEQA) and State Guidelines for the Implementation of CEQA. The EIR has identified anticipated significant environmental effects of the project, which are related to Air Quality, Traffic, and Noise.

LOCATION:

The project site is generally located on the east side of Dale Evans Parkway, between Bass Hill Road and Thunderbird Road; APN 3112-251-24.

CASE PLANNER:

Mr. Douglas Fenn, Senior Planner

RECOMMENDATION:

Approval

PROJECT SITE AND DESCRIPTION

A. Proposed Project:

The project is approximately thirty (30) acres in size and is located on the east side of Dale Evans Parkway, between Bass Hill Road and Thunderbird Road (refer to the Zoning/Location Map in the Attachments).

The proposal includes the subdivision of thirty (30) acres of land into five (5) parcels which requires a tentative parcel map. Tentative Parcel Map No. 18095 will create lots ranging from 0.66 acres to 25.22 acres in size. Future development of the site will include shared access points, driveways and parking, coupled with integrated and complementary architecture, drought-tolerant landscaping and storm water drainage systems.

A Development Permit is required for the architectural and site plan review of the project, which will be anchored by a 227,034 square-foot Walmart Super Center. The Super Center is a retail outlet for the sale of groceries, a variety of general merchandise and will include an outdoor garden area that may operate twenty-four (24) hours a day. A Conditional Use Permit is

required for the outdoor display of seasonal merchandise and the proposed Tire-Lube Express automotive service center. The commercial center will include four (4) smaller retail pads with an additional 19,000 square feet of building area. The project site plan indicates there will be a maximum of three (3) drive-through facilities, consisting of a bank and two (2) fast food retailers, requiring approval of a Special Use Permit. The proposed Walmart Super Center is anticipated to provide 247,034 square feet of commercial space.

B. Existing Land Use Designations:

<u>Property</u>	<u>General Plan</u>	<u>Zoning</u>	<u>Land Use</u>
Site:	General Commercial (C-G)	C-G	Vacant
North:	Estate Residential (R-E)	R-E	Single-Family Residences
South:	Open Space	OS-R	Civic Center Park
East:	Estate Residential (R-E)	R-E	Single-Family Residences
Northeast	Office Professional (O-P)	O-P	Vacant
West:	General Commercial (C-G)	C-G	Retail

C. Surrounding Land Uses and Setting:

The project site is vacant, with scattered native vegetation including twenty (20) Joshua Trees. The subject site has a gentle slope from the southeast to northwest. The project area is adjacent to an established single-family residential neighborhood that is located to the northeast and southeast of the subject site within the Estate Residential (R-E) zoning designation. The property to the south is within the Open Space Recreational (OS-R) zoning designation and is developed with the Civic Center Park and Aquatics Center. The zoning designation to the west, across Dale Evans Parkway, is General Commercial (C-G) and contains the Apple Valley Commons retail center, which includes a Super Target and other retailers, services and fast food restaurants. The former Lowe’s Home Improvement center is located north of the Super Target. The project has approximately 1,850 feet of street frontage along Dale Evans Parkway. There will be two (2) entrances into the project site. The main entrance intersects Bass Hill Road, which will be a signalized intersection. The second entrance will be located approximately 900 feet south of Thunderbird Road and will also be signalized.

The established single-family neighborhood located to the northeast and southeast of the project site has created a need for increased setbacks to be incorporated into the site design. The project has an approximately seventy-three (73)-foot building setback from the rear property line (southeast) with ten (10) feet of dense landscaping proposed. A ninety-three (93)-foot setback is proposed from the rear of the building to the northeast property line. Buffering along this northeast property lines includes a fifteen (15) to twenty-five (25)-foot wide landscape area. The nearest residential unit to the southeast is 158 feet from the rear wall of the proposed Walmart Super Center building. The nearest residential unit to the northwest is 101 feet from the proposed parking lot.

In addition to increased setbacks, the noise study identified the need for an eight (8)- to ten (10)-foot high sound attenuation wall on a two (2)-foot high berm (referred to as twelve (12)-foot screen wall) to be constructed along the northeast and southeast project boundaries of the site. The wall height measured from the adjacent residential properties could be as high as twelve (12) feet, which is the combination of the berm and the screen wall. This exceeds the maximum allowed height of six (6) feet; therefore, the applicant is requesting a variance to deviate from Development Code Section 9.37.070 “Walls and Fences”.

The proposed commercial center is located on Dale Evans Parkway, which is a Major Road as identified within the Circulation Element of the General Plan. The project, as conditioned, will be required to provide setbacks with landscape buffers, walls, including a combination thereof, to ensure there is no adverse impact to the existing residential neighborhoods to the northeast and southeast of the project. As conditioned, the proposed project is compatible with surrounding land uses.

ANAYLSIS:

A. Building/Unit Square Footage

The following table provides the acreage, proposed use and the anticipated floor area of each of the proposed parcels.

Parcel (Pad)	Parcel Acreage	Proposed Use	Gross Floor Area
1	25.22	Walmart Super Center	227,034 s.f.
2	1.97	Retail	11,000 s.f.
3	0.66	Bank with Drive-through	3,000 s.f.
4	1.01	Drive-through Restaurant	2,500 s.f.
5	1.33	Drive-through Restaurant	2,500 s.f.
Total	30.19		246,034 s.f.

Total Approximate Building Square Footage 246,034 square feet

B. Building Height:

Permitted Maximum: 35 ft.

Proposed Maximum: 42 ft.

The Development Code identifies thirty-five (35) feet as the maximum height within the General Commercial (C-G) zoning designation; however, the Development Code also states the Planning Commission has the latitude to allow certain architectural features to exceed the maximum height limit. This subsection is further explained and expanded upon in Section 9.35.060 "Projections Above Height Limits" which reads as follows:

"B. Structure. Architectural features such as cupolas, bell towers, and steeples may exceed the height limits by a maximum of fifteen (15) feet when approved by the Planning Commission. The Commission must find that any such projection which exceeds the height limits is an integral part of the building and will enhance the overall design of the building(s)."

The building height of the proposed Walmart Super Center building ranges from twenty-five (25) feet to forty-two (42) feet at the highest curvilinear feature. There are three (3) tower elements that extend to forty-one (41) feet in height. The additional height of the towers provides symmetry and architectural interest to the building by providing vertical articulation to the roof line and accentuating the entry points to the building. This height difference is important to the design and scale of the building and will not be obtrusive to the surrounding community. Condition No. P28 requires the tower elements not exceed a height of forty-two (42) feet as illustrated on the elevation plans.

C.	<u>Setbacks:</u>	Required	Proposed
	Dale Evans Parkway (front)	45 ft.	45 ft.
	Interior Side (north)	0 & 25 ft.	84 ft.
	Interior side (south)	0 & 25 ft.	264.69 ft.
	Rear (east)	0 ft.	73 ft.
	(25 feet minimum side yard and rear setbacks when adjacent to a residential zone or use.)		

D.	<u>Landscaping</u>	Required	Proposed
		10%	20%

The minimum landscape requirement is ten (10) percent of the entire site; however, the applicant is providing twenty (20) percent landscape coverage throughout the site. The project design includes a fifty-five (55)- to 103-foot wide landscaped retention basin adjacent to the Civic Center Park, providing adequate buffering and integration of the two (2) uses. The project also includes a forty-five (45)-foot wide landscape area along Dale Evans Parkway and a twenty-five (25) foot-wide landscape area along the northeast boundary that separates the commercial uses from the residential uses. This conforms to Development Code requirements for buffer/parking setbacks along the perimeter of the project site. The applicant will also be responsible for the installation, and one year of initial maintenance, of all landscaping within the public right-of-way. The landscape plan indicates the project will incorporate a wide variety of drought-tolerant trees and shrubs. The plans indicate that fifteen (15)-gallon size trees are proposed for areas in the parking lot, perimeter accents, streets and drive aisles. These trees may take many years to provide a substantial impact to the appearance of the commercial center. Therefore, staff recommends Condition No. P23, which requires that the minimum tree size for the center be twenty-four (24)-inch box specimens. In addition, forty-eight (48)-inch box specimen trees are required for the accent areas located at the primary entrances to the center.

A Biological Study was prepared by Jeff W. Kidd Biological Consulting in July of 2007. The study indicated there are twenty (20) healthy Joshua Trees on site. The existing Joshua Trees are subject to the requirements of Development Code Section 9.76, "Plant Protection and Management". The project requires relocation of the Joshua Trees and the Ordinance stipulates that relocation must occur on site. The landscape plan has been designed to incorporate the relocation of these trees along the perimeter of the project. Staff recommends Condition No. P11, which requires compliance with the Native Plant Ordinance, and the relocation of twenty (20) Joshua Trees from their existing locations to elsewhere on the project site.

The Burrowing Owl, which is categorized as a special status species, has been determined to be present within the project site. The development of the project site will contribute to the incremental loss of habitat for the Burrowing Owl, and will displace at least one owl known to be a resident within the project site. Field surveys, conducted for the February 15, 2008 Biological Resources Assessment update found several suitable burrows; however, only one (1) Burrowing Owl was observed at that time. The EIR requires mitigation measures to address the impact the project will have on the existing Burrowing Owl. Additionally, Findings have been incorporated in the staff report that lists some of the mitigations regarding the Burrowing Owl.

E.	<u>F.A.R.:</u>	Permitted	0.50
		Proposed	0.23

The Town Code states that the maximum Floor Area Ratio (FAR) shall not exceed 0.5 . As proposed, the total FAR will be 0.23 and will conform to development standards of the General Commercial zoning designation.

F. Parking and Traffic:

For shopping centers between 25,000 and 500,000 square feet in size, the Development Code requires one (1) parking space per 250 square feet of Gross Floor Area (GFA). The proposed 247,034 square foot commercial center is required to have 988 parking spaces. The applicant is proposing 1,054 parking spaces, which is 66-spaces in excess of the Development Code requirement. Based upon the size and scope of this proposal, a Traffic Impact Analysis (TIA) was required in order to address project-specific traffic conditions, and to determine appropriate mitigation measures necessary to reduce traffic impacts and to comply with the San Bernardino County Congestion Management Plan (CMP). The following summary lists the on- and off-site mitigation measures identified within the TIA and required for the project:

On-Site Traffic Improvements:

1. Dale Evans Parkway is currently improved. However, the applicant is required to construct a median, with acceleration/deceleration lane, to provide access to the project's proposed driveways. This project will require street widening, relocation of curbs, sidewalks, utilities and a bus turn-out;
2. The project shall provide sufficient parking spaces to meet the Town of Apple Valley parking requirements, thereby meeting on-site parking demands, and,
3. On-site traffic control consisting of signage and striping will be implemented in conjunction with detailed construction plans for the project.

In addition to the required on-and off-site improvements, the following requirements have been conditioned to comply with the General Plan and Development Code.

Off-Site Traffic Improvements:

1. Traffic signal and intersection modifications shall be provided at the Dale Evans Parkway and Bass Hill Road intersection.
2. The north side of Outer Highway 18 is to be removed from Standing Rock Avenue to Dale Evans Parkway. In combination with the removal of the outer highway, a new connection at Standing Rock Avenue and State Route 18 is to be constructed.
3. New traffic signals are required at the intersections of Dale Evans Parkway and Bass Hill Road, Dale Evans Parkway and Thunderbird Road and Thunderbird Road and Rancherias Road.
4. The Traffic Impact Analysis (TIA) identified off-site improvements that will eliminate anticipated project-related roadway deficiencies throughout the TIA study area.

5. A Class 1 Bike Path shall be constructed on the east side of Dale Evans Parkway. A Lifeline Multi-Use Trail is required along the northeasterly and east boundary of the property adjacent to the rear property line of the project as identified in General Plan Exhibit II-9, Recreational Trail System.
6. In addition to the bus turn-out identified above, the installation of a bus stop shelter will be required on Dale Evans Parkway.

The site is accessed via two (2) separate driveways along Dale Evans Parkway. The southerly access drive will provide entrance and shared circulation with the commercially zoned parcel located to the southwest (former site of the Apple Valley Public Library). The Planning and Engineering Divisions have determined that providing reciprocal access to the southwesterly parcel will be safer and more convenient for the future patrons. Condition No. P13 is recommended that would require a reciprocal access agreement be recorded to ensure future connectivity within the commercial center and with any future use or development occurring at the former library site.

The applicant will be responsible for improving Dale Evans Parkway to Town standards, which are half-width street improvements on the development side. In addition to these improvements, the applicant is responsible for paying Traffic Impact Fees for this project. With the required improvements, the level of service will improve at the surrounding intersections and will be in conformance with the goals and objectives of the General Plan and Caltrans road improvement standards. Implementation of the traffic mitigation measures identified in the EIR will reduce potential traffic and transportation related impacts to an acceptable level of service, per Town and Caltrans standards.

G. Tentative Parcel Map

This subdivision will facilitate the development of a major retail commercial shopping center consistent with the direction from the Town Council to encourage and promote retail development on a town-wide basis to meet the consumer needs of the community. The proposed map will create five (5) legal commercial lots ranging from 0.66 to 25.22 acres in size. All of the proposed lots exceed the minimum site development standards as identified in the Development Code under the General Commercial (C-G) zoning designation.

H. Drainage

The project will create impervious surfaces (such as the building, driveways and parking areas) that will create additional surface water runoff. The project is designed with three (3) retention basins. The Engineering Division has recommended Condition No. EC1, which requires that a final drainage plan be submitted for review and approval by the Town Engineer. This plan must show provisions for receiving and conveying off-site and on-site tributary drainage flows around or through the site in a manner which will not adversely affect adjacent or downstream properties.

This plan shall illustrate how retaining onsite drainage flows from a 100-year design storm may be accomplished. The preliminary grading plan shows that the site is designed to retain water on site and includes oversized drainage facilities. The Engineering Division is requiring the applicant to provide on-and off-site improvements in order to convey storm water to the proposed retention basins as approved by the Town Engineer.

I. Other Public Facilities and Services:

The project will be required to connect to the public sewer. Sufficient capacity exists in the wastewater and sewer trunk lines. The project will not require any upgrades or expansions to the existing wastewater system. Apple Valley Ranchos Water Company (AVRWC) has concluded in its assessment of water service that a reliable water system can be constructed to serve the project, including times of extended drought. Apple Valley Fire Protection District's Conditions of Approval are included in the attached Recommended Conditions of Approval. School Impact Fees will be paid at the issuance of Building Permits.

USE PERMITS, VARIANCE AND DEVELOPMENT PERMIT ANALYSIS:

A. Conditional Use Permit

A Conditional Use Permit is required for the outdoor display of merchandise and the proposed Tire-Lube Express automotive service. The Conditional Use Permit process allows the Commission an opportunity to consider certain uses which may have potential adverse impacts upon surrounding property or the general public and to condition such uses accordingly. The Tire-Lube Express is located at the southeast corner of the Walmart Super Center building. The service bay doors will open toward Civic Center Park. The work being performed on vehicles will be conducted entirely within the building. There will be no auto repair activities conducted outside the building.

The proposed outdoor display area will be approximately twenty (20)-feet wide, located along the front façade of the Walmart Super Center building. The merchandise proposed for display will, typically, be seasonal merchandise, such as outdoor grills, lawn tractors, power mowers, wheelbarrows, patio furniture and landscaping materials. Staff is recommending Condition Nos. P8 and P9, which require the outdoor non-display and the storage of merchandise or equipment be completely screened from public view. Similar requests were previously approved by the Planning Commission for the Home Depot and Lowe's stores in the Town.

B. Special Use Permits:

A Special Use Permit is required to allow drive-through facilities located within the Town of Apple Valley. The Special Use Permit process allows the Commission the opportunity to consider certain uses which may have potential adverse impacts upon or surrounding property or the general public and to condition such uses accordingly. The applicant is requesting Planning Commission review and approval of a Special Use Permit to allow three (3) drive-through establishments within the center, two (2) for fast food restaurant use and one (1) for a bank.

Each drive-through building site has provided queuing areas in the drive-through lanes to accommodate 120 feet of vehicle stacking as required by Code. The menu boards for the food establishments must be sited so as to not be visible from Dale Evans Parkway or Thunderbird Road. Recommended Condition No. P33 ensures that the placement of the menu boards is sensitive to the streetscape and any adjacent residential use. Staff also recommends Condition No. P32 which requires any combination of landscaping, decorative low wall or trellis-like cover be incorporated to screen the drive-through window from public and private views.

C. Variance

There are existing single-family residences located along the northeast and southeast boundaries of the project site. Based upon the results of the noise study, an eight (8)-to ten (10)-foot high screen wall, on a two (2)-foot high berm (referred to as twelve (12) screen wall), is proposed. The combined height of the wall and berm, measured from the lowest grade at the property line, may be as high as twelve (12) feet. The proposed wall height exceeds the maximum allowed height of six (6) feet; therefore, the applicant is requesting a variance to deviate from this development standard. The height of the screen wall is gradually reduced as it staggers down toward the east and south away from the maximum height located at the northeast corner of the site. To grant a Variance, there must be a special circumstance applicable to the property, including size, shape, topography, location or surroundings that would create a hardship in complying with the Development Code standards. Due to the change in topography from the development site to the adjacent residential lots, and the location of a commercial use adjacent to residential uses, positive Findings to grant the variance can be made. Findings to support the Variance also include the need to protect the adjacent single-family neighborhood from excess noise related to the proposed commercial activity.

D. Architectural Analysis:

The Walmart Super Center has been designed with certain architectural elements that complement the design of the Apple Valley Commons shopping center to the west of the project site. This commercial center incorporates a contemporary Spanish style, utilizing matching materials and color schemes and creating an overall uniform theme for the center. The proposed materials include terracotta "S" roof tiles, plaster walls, stone veneer and cornice moldings. The proposed design of the Walmart Super Center building replicates the varied roof lines and tower element, window design, arches and covered trellis details of the buildings within the Apple Valley Commons Shopping Center. A variety of earth tone colors are proposed, which include shades of tan and brown that are compatible with the adjacent center. Architectural accents, such as pre-cast concrete medallions, decorative tile and stone veneer, provide Spanish details to all buildings proposed within this development.

Appropriately, the proposed Walmart Super Center building has been designed with strong architectural elements and vertical features. The facades of the building are broken up with a variety of architectural elements, including pop-outs, reveals, covered trellises, and covered walkways. The wall planes of the building are staggered and the parapet roof line of the structure varies in height and style to add to the visual interest of the building. The varied roof heights and staggered footprints also provide character to the design of the center. Similar designs will be carried out on the freestanding buildings within the Walmart Super Center, but at a smaller scale. Staff is recommending Condition No. P38, which allows staff to approve the architectural designs of the pad buildings, and minor modifications, if they are consistent with the overall look and intent of the design approved by the Planning Commission.

The commercial center will provide pedestrian focal points and gathering places. A pedestrian plaza area, with convenient access to the Civic Center Park, is south of the Walmart Super Center building. This open space plaza area will provide a gathering place for patrons and employees to sit and enjoy the outdoor setting. This plaza is

architecturally enhanced with decorative trellis features and landscaping. This complies with Section 9.37.050(D) (2) of the Development Code, which requires projects larger than five (5) acres to “include a hardscape element which creates a focus for the development and creates a usable public open space amenity such as a plaza or arbor center”.

E. Sign Program:

The Development Code requires the approval of a Sign Program for any multi-tenant business or shopping center with shared sign facilities. The intent of a Sign Program is to integrate signs with building and landscape design to create a unified architectural statement throughout the center. Sign programs are also intended to provide a means of flexible application of sign regulations to encourage maximum creativity in the design and display of signs.

The applicant is requesting review and approval of a Sign Program for the Walmart Super Center. The applicant has prepared a signage location plan for the Commission’s review. The plan also provides the criteria for architectural design and total square footage of all allowable signage. The proposed Sign Program identifies different tenant types, including the “Anchor Tenant”, “In-line Shop Tenants” and “Single User Pads”.

Pylon Signs/Monument Signs

The proposed sign program includes the construction of one (1) pylon sign and three (3) monument signs along Dale Evans Parkway. There are two (2) entrances along Dale Evans Parkway. Two (2) monument signs are proposed at six (6) feet in height, one (1) at fifteen (15) feet in height and the pylon sign is thirty (30) feet in height. The monument signs comply with the 200-foot separation requirement of the Code. However, staff recommends that both of the signs be relocated a minimum of fifty (50) feet south of the entrances to prevent any sight clearance issue with vehicular traffic entering, leaving or passing by the center. Staff is recommending Condition No. P39, which will require that these two (2) signs be relocated fifty (50) feet south from the entrances. Staff also recommends Condition No. P38, which requires that the height of the pylon sign be reduced to twenty-five (25) feet in order to comply with the Development Code.

Wall Signage

The sign program indicates that all wall signs will consist of interior-illuminated, plastic faced, metal channel letters, and encourages reverse channel letters. Can signs may be approved on a case by case basis, provided that the can sign represents a registered trademark, symbol or logo commonly used by the tenant (Recommended Condition No P40). Staff is also recommending Condition No. P41 prohibiting exposed raceways and exposed neon.

Anchor Tenant

The Sign Program identifies that the Anchor is allowed one (1) square foot of signage per each linear foot of building frontage, with sign coverage limited to eighty (80) percent of the building’s façade. The Major Tenant signage may not exceed four (4) feet in height for primary signage and two (2) feet in height for secondary signage. The Code also allows a ratio of one (1) square foot of signage to one (1) linear foot of building frontage.

Single Tenant Pad

The Sign Program allows for a one (1) square foot of signage per each linear foot of building frontage with sign coverage limited to eighty (80) percent of the building's façade, not to exceed two (2) feet of overall height for single line and two (2) feet six (6) inches for double line.

Miscellaneous Signage

The Sign Program addresses various signs that are all consistent with the Code. Directional signage has been provided in the Sign Program and addresses safety issues for proper circulation in the center. Any sign not identified in the Sign Program shall be subject to the regulations of the Development Code.

SUMMARY

This is a request to approve a 246,034 square foot retail commercial center within the General Commercial (C-G) land use and zoning designation. This center includes a 227,034 square foot Walmart Super Center building and four (4) retail pads. Recommended Conditions have been provided that will reduce any impacts of this operation to a level of insignificance. Findings for the Variance request for the height of the wall on the north and east perimeters of the site can be made due to the change in topography and to protect the adjacent single-family neighborhood from excess noise related to commercial activity. A detailed architectural analysis has been provided for the proposed commercial center and its design compatibility with other commercial centers in the immediate vicinity. Details have also been provided that support the project's compliance with the General Plan and Development Code.

ENVIRONMENTAL ASSESSMENT:

The Town considered the project under the provisions and requirements of the California Environmental Quality Act (CEQA). An Initial Study was prepared, which determined that the proposed commercial center had the potential to significantly impact the environment. The Town's conclusion was that these impacts had to be addressed in an Environmental Impact Report (EIR). The EIR was prepared, and concluded that, although the project had the potential to significantly impact the environment, in most cases, these impacts could be mitigated and reduced to less than significant levels. In the case of Air Quality, Traffic and Noise, however, the impacts associated with the project cannot be reduced to less than significant levels. As required by CEQA, the Town must, therefore, consider whether the benefits of the project outweigh its potential impacts and, if so, adopt a Statement of Overriding Considerations for the project. A Statement of Overriding Considerations has been prepared and is contained within Planning Commission Resolution No. 2010-009.

NOTICING

Tentative Parcel Map No. 18905, Development Permit No. 2010-009, Conditional Use Permit No. 2005-024, Special Use Permit No. 2005-015, Variance No. 2009-001 and Sign Program No. 2005-040 were advertised as a public hearing in the Apple Valley News newspaper on October 15, 2010 as required under Development Code Section 9.13.030 *Notice of Public Hearings*.

FINDINGS

- A. Tentative Parcel Map

As required under Section 9.71.040 (A5) of the Development Code, prior to approval of a Tentative Parcel Map, the Planning Commission must make the following Findings:

1. The proposed Subdivision, together with the provisions for its design and improvement, is consistent with the General Plan and any applicable Specific Plan. The proposed subdivision or land use is compatible with the objectives, policies, general land uses and programs specified in the General Plan and any applicable Specific Plan (Subdivision Map Act 66473.5).

Comment: The property has a General Plan land use designation of General Commercial (C-G) and, by size, shape and configuration, has the ability to be developed in a manner consistent with the General Plan Land Use Element and zoning designations. The project is consistent with the surrounding development of the existing General Commercial (C-G) designation to the northwest and west of the subject site. The project is a proposal to subdivide approximately thirty (30) acres into five (5) parcels that meet the minimum requirements for lot size, width and depth as prescribed by the Code.

2. The Planning Commission has considered the effects of its action upon the housing needs of the region and has balanced these needs against the public service needs of its residents and available fiscal and environmental resources (Subdivision Map Act Section 66412.3).

Comment: The proposal consists of a land subdivision within the General Commercial (C-G) zoning designation. No houses are being removed and housing needs will not be negatively impacted. The proposed subdivision will allow the property owner to develop the proposed Walmart Super Center in a manner that is consistent with the Town's General Plan Goals and Objectives to promote commercial development. No houses are being removed and housing needs will not be negatively impacted.

3. The design of the subdivision provides, to the extent feasible, for the future passive or natural heating or cooling opportunities in the subdivision.

Comment: The commercial parcels created under this subdivision are appropriate in size to provide natural heating and cooling opportunities for development of the site. The subdivision proposal will facility the development of the Walmart Super Center and will not conflict with the provisions of any adopted, applicable plan, policy or regulation. The project complies with the Town's Climate Action Plan and integrates mitigations into the project that address heating and cooling opportunities. Some of these related mitigations include:

- a. The Project incorporates a "white" design, providing for increased solar reflectivity. This passive technology reduces heating/air conditioning demands when compared to more common darker colored roof designs.

- b. All buildings will use “super” high efficiency packaged HVAC units that will surpass industry standard efficiencies and performance standards mandated under California Title 24. In this regard, the HVAC units are rated at an integrated part-load value (IPLV) of 16.2, which is more efficient than the IPLV of 13.3 required by California Title 24.

Furthermore, as development occurs, the individual lots are subject to the implementation of natural heating and cooling requirements pursuant to Title 24 energy requirements.

4. The Planning Commission shall determine whether the discharge of waste from the proposed subdivision into the existing sewer system would result in a violation of the requirements as set forth in Section 13000 et seq., of the California Water Code. If the Planning Commission finds that the proposed waste discharge would result in or add to a violation of said requirements; the Planning Commission may disapprove the subdivision (Subdivision Map Act Section 66474.6).

Comment: The project is a commercial land subdivision and is required to connect to the Town of Apple Valley sewer system. The proposed development can be accommodated by the existing capacity of the sewer system and wastewater lines. Applicable fees to connect to these existing infrastructure facilities is a required condition of approval. The requirement to hook up to existing sewer and wastewater lines will comply with California Water Code.

B. Development Permit

As required under Section 9.17.080 of the Development Code, prior to approval of a Development Permit, the Planning Commission must make specific required “Findings”. These Findings, as well as a comment to address each, are presented below.

1. That the location, size, design, density and intensity of the proposed development is consistent with the General Plan, the purpose of this Code, the purpose of the zoning district in which the site is located, and the development policies and standards of the Town;

Comment: The proposed commercial retail center is located within the General Commercial (C-G) land use and zoning designation. The development is in compliance with the General Plan and Development Code, which permits the new construction of commercial structures, subject to the Planning Commission’s review and approval of a Development Permit. The project complies with the General Plan policies and objectives and Town Council direction to facilitate development of major retail shopping centers to meet the consumer needs of the community. Therefore, the project is consistent with the policies goals and objectives of the adopted General Plan relative to permitted uses within the Commercial zoning districts. That the location, size and design of the proposed structures and improvements are compatible with the site's natural landforms,

surrounding sites, structures and streetscapes;

Comment: The property is located within the General Commercial zoning district and is compatible with the surrounding area, which is primarily developed commercial land uses in addition to single-family residential uses to the east of the proposed Walmart Super Center. The project design meets all development standards related to commercial development adjacent to residential uses, with the exception of the requested variance for wall height. Therefore, the project is considered compatible to the adjacent development. The site and existing improvements can facilitate the proposed project and the structure is permitted subject to approval of a Development Permit. The project includes the development of a twelve (12)-foot perimeter wall between the development and the existing single-family uses. This wall, and the Conditions of Approval for the operations of the site, will reduce any impacts to the residential zone to a level of less than significance.

2. That the proposed development produces compatible transitions in the scale, bulk, coverage, density and character of development between adjacent land uses;

Comment: The proposed Walmart Super Center is adjacent to commercial uses to the west. As conditioned, the highest architectural feature on a building will not exceed forty-two (42) feet in height. Perimeter landscaping will add buffering to the site. The proposed commercial center is a compatible use because the site has been designed with adequate setbacks, parking and access points. The development is not anticipated to generate excessive noise, vibration, or other disturbances. The highest architectural features of the buildings are a significant distance from existing single-family neighborhood, which permits a maximum height of thirty (35) feet.

4. That the building, site and architectural design are accomplished in an energy efficient manner;

Comment: All buildings will be constructed in accordance with the Uniform Building Code and will be oriented in a manner that will optimize efficient energy resources. The project must comply with Building and Safety Division and UBC Title 24 requirements.

The proposed Walmart Super Center will not conflict with the provisions of any adopted, applicable plan, policy or regulation and will comply with the Town's Climate Action Plan (CAP), addressing the reduction of greenhouse gas emissions adopted to comply with the California Global Warming Solutions Act. The CAP achieves emission targets that apply at reasonable intervals throughout the life of the Plan implemented through conditions to new construction. A few of the CAP conditions/mitigations that are required for the proposed Walmart Super Center are as follows:

- a. Sensors will detect activity in a room and automatically turn off the lights when the space is unoccupied.

- b. All lighting will include T8 fluorescent lamps and electronic ballasts, which are the most efficient lighting on the market. In addition, the entire store will use only low-mercury lamps, which are not considered to be a hazardous material and represent “green technology.”
 - c. The Project incorporates a “white” design, providing for increased solar reflectivity. This passive technology reduces heating/air conditioning demands when compared to more common darker colored roof designs.
 - d. All buildings will use “super” high efficiency packaged HVAC units that will surpass industry standard efficiencies and performance standards mandated under California Title 24. In this regard, the HVAC units are rated at an integrated part-load value (IPLV) of 16.2, which is more efficient than the IPLV of 13.3 required by California Title 24.
5. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures;

Comment: The design, materials and details of the proposed Walmart Super Center are compatible with properties or improvements in the general vicinity. The property is within the General Commercial zoning designation and will utilize an architectural design consistent with the Development Code commercial design guidelines. The design, scale materials and earth tone colors have been intentionally designed to be compatible with the Apple Valley Commons commercial center to the west of the project site. The applicant requested that a thirty (30)-foot high pylon sign be permitted on this site. A condition of approval has been included requiring that the height of the pylon sign be reduced to twenty-five (25) to comply with Development Code requirements.

6. That the development proposal does not unnecessarily block public views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use;

Comment: The subject site has a gentle slope from the southeast to northwest. To the south, the property is developed with the Civic Center Park and Aquatic Center. The zoning designation to the west, across Dale Evans Parkway, is General Commercial (C-G) and is developed with the 742,000 square foot Apple Valley Commons that includes a Super Target store and other retailers, services and fast food restaurants. The adjacent former Lowe’s Home Improvement center is located north of the Super Target store.

There are existing single-family homes to the northeast and southeast of the subject site, within the R-E zoning designation. The project has an

approximately seventy-three (73)-foot building setback from the rear property line (southeast), with ten (10) feet of dense landscaping. The landscaping consists of trees that provide an elevated buffer. The site plan shows the northeast portion with a ninety-three (93)-foot building setback and shows landscaping buffering from fifteen (15) to twenty-five (25) feet in width. The nearest residential unit to the southeast is shown at 158 feet from the rear wall of the proposed Walmart building and, to the northwest, it is shown at 101 feet to the proposed parking lot. The project is not located in a view shed area does not block any scenic areas in the surrounding area.

7. That the amount, location, and design of open space and landscaping conforms to the requirements of this Code, enhances the visual appeal and is compatible with the design and function of the structure(s), site and surrounding area;

Comment: The Code's minimum landscape requirement is ten (10) percent of the entire site; however, the applicant is providing twenty (20) percent throughout the site. The project design includes a fifty-five (55)- to 103-foot wide landscaped retention basin adjacent to the Civic Center Park, providing adequate buffering and integration of the two uses. The project site also proposes a forty-five (45)-foot wide landscape area along Dale Evans Parkway and a twenty-five (25)-foot wide landscape area along the northeast boundary that separates the commercial uses from the residential uses. The project conforms to Development Code requirements for buffer/parking setbacks along the perimeter of the project site. In addition to the landscape buffer between the commercial site and the adjacent residential uses, a Lifeline Trail will be developed along the rear property line of the project as part of the Town's Multi-Use Trail system. The Conditions of Approval require that the site be landscaped and the amount of landscaping proposed is in conformance with the Development Code.

8. That quality in architectural design is maintained in order to enhance the visual environment of the Town and to protect the economic value of existing structures;

Comment: The architectural design of the proposed Walmart Super Center will emulate the varied roof lines and tower element, window design, arches and covered trellis details of the buildings within the Apple Valley Commons Shopping Center. A variety of earth tone colors that include shades of tan and brown will be compatible with the adjacent center. Architectural accents, such as pre-cast concrete medallions, decorative tile and stone veneer provide Spanish details to all buildings. The buildings, with adherence to recommended Conditions of Approval, will enhance the visual environment of the Town and to protect the economic value of existing structures.

9. That excessive and unsightly grading of hillsides does not occur, and the character of natural landforms and existing vegetation are preserved where feasible and as required by this Code;

Comment: The project site is relatively flat, with no significant slopes or landforms present. No hillside grading will occur. The project will require minimal grading. The site is habitat to twenty (20), healthy Joshua Trees. Under the supervision of a Native Plant Expert, and in accordance with Development Code Section 9.76 "Plant Protection and Management", the existing Joshua Trees will be boxed, protected and eventually relocated on site prior to occupancy. Other than Joshua Trees, no other vegetation of significance is present on project site.

10. That historically significant structures and sites are protected as much as possible in a manner consistent with their historic values;

Comment: The site is vacant and there are no known historical structures on site.

11. That there are public facilities, services and utilities available at the appropriate levels, or that these shall be installed at the appropriate time, to serve the project as they are needed;

Comment: The project will require the extension of water and sewer facilities to the site; however, there are existing off-site facilities available to serve the project site. The project is conditioned to provide street improvements and is also conditioned to provide sewage disposal by connecting to the Town of Apple Valley system. In addition, the proposal, with adherence to the recommended Conditions of Approval, will result in improvements to the public right-of-way that will be compatible with the surrounding neighborhood.

12. That access to the site and circulation on and off-site is safe and convenient for pedestrians, bicyclists, equestrians and motorists;

Comment: The Walmart Super Center project will be developed with a Bike Path along Dale Evans Parkway and the project will have bicycle racks throughout the site in compliance with the Code. The project includes two access points off Dale Evans Parkway. Off-site improvements required for the project will maintain a level of service "C", or better, on Town roadways. Off-site improvements to State Route 18 will allow a level of service "D" to be maintained in accordance with Caltrans requirements. The applicant shall be required to provide a reciprocal access, circulation and parking agreement for the parcel to the southwest, allowing for better traffic flow for future development. Adjacent to the rear property line of the project, the applicants are responsible for developing a Lifeline Trail as part of the Town's Multi-Use trail system that will provide access for non-motorized users. Due to the numerous design measures and conditions of approval, the circulation on and off site will be safe and convenient for all users. The proposal will not adversely impact access, circulation and the physical character of surrounding streets.

13. That the proposed development's generation of traffic will not adversely impact the capacity and physical character of surrounding streets;

Comment: The proposed Walmart Super Center fronts along a major roadway, Dale Evans Parkway, which will have been designed to accommodate retail commercial traffic. A traffic analysis was completed and the improvements to the abutting streets must comply with the required improvements to maintain a level of service of "C" or better along Dale Evans Parkway. Additionally, the project is in compliance with Caltrans minimum requirement of level of service "D" where the project impacts State Route 18, and will be in conformance with the goals and objectives of the General Plan. The proposal will not adversely impact capacity or the physical character of surrounding streets.

14. That traffic improvements and/or mitigation measures are provided in a manner adequate to maintain a Level of Service C or better on arterial roads and are consistent with the Circulation Element of the Town General Plan;

Comment: A traffic analysis was completed and includes a mitigation measure that requires Dale Evans Parkway be developed with street improvements in compliance with Town Standards. With the required improvements, the level of service will improve at several intersections identified within the traffic analysis and will be in conformance with the goals and objectives of the General Plan.

15. That environmentally unique and fragile areas, such as the knolls, areas of dense Joshua trees, and the Mojave River area, shall remain adequately protected;

Comment: All of the protected existing twenty (20) Joshua Trees impacted by development are subject to the regulations specified in Section 9.76.020 (Plant Protection and Management) of the Development Code. The Joshua Trees on site shall be boxed, protected and relocated to a landscape planting area on site.

16. That there will not be significant harmful effects upon environmental quality and natural resources;

Comment: The proposed Walmart Super Center may have a significant effect on the environment and, therefore, an Environmental Impact Report (EIR) has been prepared in compliance with the California Environmental Quality Act (CEQA) and State Guidelines for the Implementation of CEQA. The EIR has identified anticipated significant environmental effects of the project in the areas of Air Quality, Traffic and Noise. Additionally, a Burrowing Owl has been discovered on the project site. The following mitigation measures are examples of what is required to lessen the development's impact on the Burrowing Owl and its habitat:

- a. All initial ground disturbing activities shall be limited to the time period between September 1 and February 1. If initial project-specific site disturbance, grading and vegetation removal cannot be conducted during this time period, pre-construction surveys for active nests within the limits of the project shall be

conducted by a qualified biologist. These surveys shall be conducted two weeks prior to any construction activities.

- b. If more than 30 days has elapsed between owl eviction and completion of clearing and grubbing activities, a subsequent survey for the burrowing owl shall be conducted to ensure that owls have not re-populated the site. Any reoccupation by owls will require subsequent protocol active eviction.

Based upon the information provided, along with the attached Statement of Overriding Considerations and implementation of proper mitigation measures as defined and required in the various Codes and standards applicable to all development within the community, the proposed project will not produce adverse impacts upon the sites nor the surrounding properties.

- 17. That there are no other relevant negative impacts of the proposed use that cannot be mitigated;

Comment: The proposed project may have a significant effect on the environment and, therefore, an Environmental Impact Report (EIR) has been prepared in compliance with the California Environmental Quality Act (CEQA) and State Guidelines for the Implementation of CEQA. The EIR has identified anticipated significant environmental effects of the project in the areas of Air Quality, Traffic and Noise. Based upon the information provided, along with the attached Statement of Overriding Considerations and implementation of proper mitigation measures as defined and required in the various Codes and standards applicable to all development within the community, the proposed project will not produce adverse impacts upon the sites nor the surrounding properties.

- 18. That the impacts which could result from the proposed development, and the proposed location, size, design and operating characteristics of the proposed development, and the conditions under which it would be operated or maintained, will not be detrimental to the public health, safety and welfare of the community or be materially injurious to properties or improvements in the vicinity, nor be contrary to the adopted General Plan; and

Comment: This proposed Walmart Super Center includes a 227,034 square foot Walmart Super Center building and four (4) retail pads. The Tire-Lube Express proposed within the Walmart Super Center and the outside display of merchandise requires a Conditional Use Permit. Recommended Conditions have been provided that will reduce any impacts of this operation to a level of insignificance. The Variance request for the height of the wall on the north and east sides of the site can be made due to the change in topography and to protect the adjacent single-family neighborhood from excess noise related to commercial activity. The legal support for the twelve (12)-foot high wall Variance has also been provided in the staff report. A detailed architectural analysis has been provided that supports the project's architectural compatibility with the existing development and uses within

the surrounding area. Details have also been provided on the proposed landscaping and parking for the proposal that complies with the Development Code.

The proposed Walmart Super Center, as designed and with adherence to the Conditions of Approval, will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity.

19. That the proposed development will comply with each of the applicable provisions of this Code and applicable Town policies, except approved variances.

Comment: The proposed Walmart Super Center can be built in conformance to the Development Code development standards, subject to approval of a Development Permit and adherence to the recommended Conditions of Approval. The Variance request for the height of the wall on the north and east sides of the site can be made due to the change in topography and the goal to protect the adjacent single-family neighborhood from excess noise related to commercial activity. The legal support for the twelve (12)-foot high wall Variance has also been provided in the staff report. A detailed architectural analysis has been provided for in the commercial center and its design compatibility.

C. Conditional Use Permit

As required under Section 9.16.090 of the Development Code, prior to approval of a Conditional Use Permit, the Planning Commission must make the following Findings:

1. That the proposed location, size, design and operating characteristics of the proposed use is consistent with the General Plan, the purpose of this Code, the purpose of the zoning district in which the site is located, and the development policies and standards of the Town;

Comment: The proposed Walmart Super Center will be located on property with a General Commercial (C-G) zoning designation. The development is in compliance with the General Plan Land Use and Zoning District that allows new construction of commercial structures subject to approval of a Development Permit. The size of the commercial center is consistent with the General Plan designation and zoning district and requires a Development Permit. The project complies with the General Plan policies, goals and objectives to facilitate development of major retail shopping centers to meet the consumer needs of the community. Therefore, the project is consistent with the policies goals and objectives of the adopted General Plan relative to permitted uses within the Commercial zoning districts.

2. That the location, size, design and operating characteristics of the proposed use will be compatible with, and will not adversely affect nor be materially detrimental to, adjacent uses, residents, buildings, structures or natural resources;

Comment: The proposed Walmart Super Center, which also includes the Tire-Lube Express automotive service center, is adjacent to a major road as identified in the Circulation Element of the General Plan. The Tire-Lube Express automotive service center is enclosed in the Walmart Super Center and no outside automotive work is permitted. The project site is adjacent to commercial retail businesses to the west. The design, materials and details of the proposed project will enhance the existing commercial inventory in the area. The project has been designed with large landscape buffers which vary from twenty-five (25) to sixty-five (65) feet, adjacent to the residential uses. The proposed automotive use is designed with service bay doors that face away from the adjacent single family residential neighborhood.

3. That the proposed use is compatible in scale, bulk, lot coverage, and density with adjacent uses;

Comment: The proposed Walmart Super Center is adjacent to commercial uses to the west. As conditioned, the highest architectural feature on a building will not exceed forty-two (42) feet in height. Perimeter landscaping will add buffering to the site. The proposed commercial center is a compatible use because the site has been designed with adequate setbacks, parking and access points and is not anticipated to generate excessive noise, vibration, or other disturbances. The highest architectural features of the buildings are a significant distance from existing single-family neighborhood, which permits a maximum height of thirty (35) feet. The automotive use is located inside the proposed building and oriented away from the existing residential community.

4. That there are public facilities, services and utilities available at the appropriate levels, or that these will be installed at the appropriate time to serve the project as they are needed;

Comment: The project would require the extension of water and sewer facilities to the site. The project is conditioned to provide street improvements and is also conditioned to provide sewage disposal by connecting to the Town of Apple Valley system. In addition, the proposal, with adherence to the recommended Conditions of Approval, will result in improvements to the public right-of-way that will be compatible with the surrounding neighborhood.

5. That there will not be a harmful effect upon desirable neighborhood characteristics;

Comment: The proposed Tire-Lube Express automotive service center is, by design, oriented away from the existing residential neighborhood and enclosed completely within the proposed Walmart Super Center building. No outside automotive work is permitted. The project site is adjacent to commercial retail businesses to the west the design. The materials and details of the proposed project will enhance the existing commercial inventory in the area. The project has been designed with large

landscape buffers which vary from twenty-five (25) to sixty-five (65) feet, adjacent to the residential uses.

6. That the generation of traffic will not adversely impact the capacity and physical character of surrounding streets;

Comment: The proposed Walmart Super Center fronts along a major roadway, Dale Evans Parkway, which will be designed to accommodate retail commercial traffic. A traffic analysis was completed and the improvements to the abutting streets must comply with the required improvements to maintain a level of service of "C", or better, along Dale Evans Parkway. Additionally, the project is in compliance with Caltrans minimum requirement of level of service "D" where the project impacts State Route 18, and will be in conformance with the goals and objectives of the General Plan. The proposal will not adversely impact capacity or the physical character of surrounding streets.

7. That traffic improvements and/or mitigation measures are provided in a manner adequate to maintain the existing service level or a Level of Service (LOS) C or better on arterial roads and are consistent with the Circulation Element of the General Plan;

Comment: A traffic analysis was completed, the results of which require that Dale Evans Parkway be developed with street improvements in compliance with Town Standards. With the required improvements, the level of service will improve at several intersections identified within the traffic analysis and will be in conformance with the goals and objectives of the General Plan.

8. That there will not be significant harmful effects upon environmental quality and natural resources;

Comment: The proposed project may have a significant effect on the environment and, therefore, an Environmental Impact Report (EIR) has been prepared in compliance with the California Environmental Quality Act (CEQA) and State Guidelines for the Implementation of CEQA. The EIR has identified anticipated significant environmental effects of the project in the areas of Air Quality, Traffic and Noise. Additionally, a Burrowing Owl has been discovered on the project site. The following mitigations measures are examples of what is required to lessen the development impact on the Burrowing Owl and its habitat:

- a. All initial ground disturbing activities shall be limited to the time period between September 1 and February 1. If initial Project-specific site disturbance, grading and vegetation removal cannot be conducted during this time period, pre-construction surveys for active nests within the limits of the Project shall be conducted by a qualified biologist. These surveys shall be conducted two weeks prior to any construction activities.

- b. If more than thirty (30) days has elapsed between owl eviction and completion of clearing and grubbing activities, a subsequent survey for the burrowing owl shall be conducted to ensure that owls have not re-populated the site. Any reoccupation by owls will require subsequent protocol active eviction.

Based upon the information provided, along with the attached Statement of Overriding Considerations and implementation of proper mitigation measures as defined and required in the various Codes and standards applicable to all development within the community, the proposed project will not produce adverse impacts upon the sites nor the surrounding properties.

- 9. That there are no other relevant negative impacts of the proposed use that cannot be reasonably mitigated;

Comment: The proposed commercial center may have a significant effect on the environment and, therefore, an Environmental Impact Report (EIR) has been prepared in compliance with the California Environmental Quality Act (CEQA) and State Guidelines for the Implementation of CEQA. The EIR has identified anticipated significant environmental effects of the project in the areas of Air Quality, Traffic and Noise. Based upon the information provided, along with the attached Statement of Overriding Considerations and implementation of proper mitigation measures as defined and required in the various Codes and standards applicable to all development within the community, the proposed project will not produce adverse impacts upon the sites nor the surrounding properties.

- 10. That the impacts, as described in paragraphs 1 through 9 above, the proposed location, size, design and operating characteristics of the proposed use, and the conditions under which it would be maintained, will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity, nor be contrary to the adopted General Plan;

Comment: The automotive use in the proposed commercial center, by its design and operating characteristics, and with adherence to the conditions under which it will be operated and maintained, will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity.

- 11. That the proposed conditional use will comply with all of the applicable provisions of this title.

Comment: The proposed Walmart Super Center, which also includes the Tire-Lube Express automotive service center, can operate in conformance to the Development Code with the exception of the proposed variance, subject to approval of a Conditional Use Permit and adherence to the recommended Conditions of Approval.

12. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures;

Comment: The design, materials and details of the proposed building are compatible with properties or improvements in the general vicinity. The property is within the General Commercial zoning district and will utilize an architectural design consistent with the Development Code site development standards and design guidelines and as approved under a Development Permit. The design, scale, materials and earth tone colors have been intentionally designed to be compatible with the Apple Valley Commons commercial center to the west of the project site. The applicant requested that a thirty (30)-foot high pylon sign be permitted on this site. A condition of approval has been included requiring that the height of the pylon sign be reduced to twenty-five (25) to comply with Development Code requirements.

13. That the development proposal does not unnecessarily block public views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use;

Comment: The subject site has a gentle slope from the southeast to northwest. To the south, the property is developed with the Civic Center Park and Aquatic Center. The zoning designation to the west, across Dale Evans Parkway, is General Commercial (C-G) and is developed with the 742,000 square foot Apple Valley Commons that includes a Super Target store and other retailers, services and fast food restaurants. The adjacent former Lowe's Home Improvement center is located north of the Super Target store.

There are existing single-family homes to the northeast and southeast of the subject site, within the R-E zoning designation. The project has an approximately seventy-three (73)-foot building setback from the rear property line (southeast) with ten (10) feet of dense landscaping. The landscaping consists of trees that provide an elevated buffer. The site plan shows the northeast portion with a ninety-three (93)-foot building setback and shows landscaping buffering from fifteen (15) to twenty-five (25) feet in width. The nearest residential unit to the southeast is shown at 158 feet from the rear wall of the proposed Walmart Super Center and to the northwest it is shown at 101 feet to the proposed parking lot. The project is not located in a view shed area does not block any scenic areas in the surrounding area.

14. That quality in architectural design is maintained in order to enhance the visual environment of the Town and to protect the economic value of existing structures.

Comment: The proposed design of the Walmart Super Center replicates the varied roof lines and tower element, window design, arches and covered trellis details of the buildings within the Apple Valley Commons Shopping Center. A variety of earth tone colors that include shades of tan and

brown will be compatible with the adjacent center. Architectural accents, such as pre-cast concrete medallions, decorative tile and stone veneer, provide Spanish details to all the buildings. The building, with adherence to recommended Conditions of Approval, will enhance the visual environment of the Town and to protect the economic value of existing structures.

15. That access to the site and circulation on and off-site is safe and convenient for pedestrians, bicyclists, equestrians and motorists.

Comment: The proposed Walmart Super Center will be developed with a Bike Path along Dale Evans Parkway and the project will have bicycle racks throughout the site in compliance with the Code. The project includes two access points off Dale Evans Parkway. Off-site improvements required for the project will maintain a level of service "C" or better on Town roadways. Off-site improvements to State Route 18 will allow a level of service "D" to be maintained in accordance with Caltrans requirements. The applicant shall be required to provide a reciprocal access, circulation and parking agreement for the parcel to the southwest, allowing for better traffic flow for future development. Adjacent to the rear property line of the project, the applicants are responsible for developing a Lifeline Trail as part of the Town's Multi-Use trail system that will provide access for non-motorized users. Due to the numerous design measures and conditions of approval the circulation on and off site will be safe and convenient for all users. The proposal will not adversely impact access, circulation and the physical character of surrounding streets.

D. Special Use Permit

As required under Section 9.16.090 of the Development Code, prior to approval of a Special Use Permit, the Planning Commission must make the following Findings:

1. That the location, size, design, density and intensity of the proposed development is consistent with the General Plan, the purpose of this Code, the purpose of the zoning district in which the site is located, and the development policies and standards of the Town;

Comment: The drive-through uses, consisting of the two (2) fast food restaurants and bank are proposed as part of the project on property within the General Commercial (C-G) land use and zoning designations, and are in compliance with the General Plan Land Use and Zoning District that allows drive-through uses, subject to approval of a Special Use Permit. The drive-through lanes will be screened with a three (3)-foot high wall and landscaping to screen the vehicles from Dale Evans Parkway. Therefore, the project is consistent with the policies goals and objectives of the adopted General Plan and Development Code relative to permitted uses within the General Commercial Land Use and zoning districts.

2. That the location, size, design and operating characteristics of the proposed use will be compatible with and will not adversely affect nor be materially detrimental to adjacent uses, residents, buildings, structures or natural resources;

Comment: The proposed drive-through uses, consisting of two (2) fast food restaurants and a bank, will be located within a retail commercial center that will be compatible with the surrounding area. These uses are adjacent to Dale Evans Parkway a major road. The project site is adjacent to commercial retail businesses to the west. The design, materials and details of the proposed project will enhance the existing commercial inventory in the area. The project has been designed with large landscape buffers, which vary from twenty-five (25) to sixty-five (65) feet adjacent to the residential uses. Placement of the menu boards shall be sensitively located so as to not impact the existing adjacent single family neighborhood.

3. That the proposed use is compatible in scale, bulk, lot coverage, density with adjacent uses;

Comment: The proposed drive-through uses (two (2) fast food restaurants and bank) will be located in a commercial center that is compatible with the site and surrounding area and has been designed with adequate setbacks and access. These proposed uses are adjacent to commercial uses to the west. Perimeter landscaping will add buffering to the site. The proposed project center is a compatible use because the site has been designed with adequate setbacks, parking and access points and is not anticipated to generate excessive noise, vibration, or other disturbances. The highest architectural features of the future buildings are a significant distance from existing single-family neighborhoods, and will not exceed a maximum height of thirty (35) feet. The design of the buildings will complement the design of the Walmart Super Center building. The scale of the four out-pad buildings will be significantly less than the Walmart Super Center building.

4. That there are public facilities, services and utilities available at the appropriate levels, or that these shall be installed at the appropriate time, to serve the project as they are needed;

Comment: The project would require the extension of water and sewer facilities to the site. The project is conditioned to provide street improvements and is also conditioned to provide sewage disposal by connecting to the Town of Apple Valley system. The restaurants would be required to provide a grease interceptor so grease is not deposited into the sewer system. In addition, the proposal, with adherence to the recommended Conditions of Approval, will result in improvements to the public right-of-way that will be compatible with the surrounding neighborhood.

5. That there will not be a harmful effect upon desirable neighborhood characteristics;

Comment: The location, size, design and operating characteristics of the proposed drive-through uses (two (2) fast food restaurants and a bank) and the required Town Development Code standards under which the uses will operate and be maintained, will not be detrimental to the public health,

safety or welfare, nor be materially injurious to properties or improvements in the vicinity. The drive-through uses (two (2) fast food restaurants and a bank) are adjacent to Dale Evans Parkway, a major road. The project site is adjacent to commercial retail businesses to the west. The design, materials and details of the proposed project will enhance the existing commercial inventory in the area. The project has been designed with large landscape buffers which vary from twenty-five (25) to sixty-five (65) feet, adjacent to the residential uses. The applicant is required to construct improvements to facilitate the proposed project and drive-through uses are permitted subject to approval of a Special Use Permit.

6. That the generation of traffic will not adversely impact the capacity and physical character of surrounding streets;

Comment: The proposed drive-through uses, (two (2) fast restaurants and a bank) will be located within a retail commercial center located on a commercial site that fronts Dale Evans Parkway, an improved roadway designed to accommodate commercial traffic. Each drive-through building site has efficient queuing area in the drive-through lanes to accommodate the 120 feet of stacking as required by Code. The entire project will front along Dale Evans Parkway which will be designed to accommodate retail commercial traffic. A traffic analysis was completed and the improvements to the abutting streets must comply with the required standard to maintain a level of service of "C" or better along Dale Evans Parkway. Additionally, the project is in compliance with Caltrans minimum requirement of level of service "D" where the project impacts State Route 18, and will be in conformance with the goals and objectives of the General Plan.

7. That traffic improvements and/or mitigation measures are provided in a manner adequate to maintain a Level of Service C, or better, on arterial road (Dale Evans Parkway) and are consistent with the Circulation Element of the Town General Plan;

Comment: The entire project will front along Dale Evans Parkway which will be designed to accommodate retail commercial traffic. Each drive-through building site has efficient queuing area in the drive-through lanes to accommodate the 120 feet of stacking as required by Code. A traffic analysis was completed and the improvements to the abutting streets must comply with the required improvements to maintain a level of service of "C" or better along Dale Evans Parkway.

8. That there will not be significant harmful effects upon environmental quality and natural resources;

Comment: The proposed commercial center may have a significant effect on the environment and, therefore, an Environmental Impact Report (EIR) has been prepared in compliance with the California Environmental Quality Act (CEQA) and State Guidelines for the Implementation of CEQA. The EIR has identified anticipated significant environmental effects of the

project in the areas of Air Quality, Traffic and Noise. Additionally, a Burrowing Owl has been discovered on the project site. The following mitigations measures are examples of what is required to lessen the development impact on the Burrowing Owl and its habitat:

- c. All initial ground disturbing activities shall be limited to the time period between September 1 and February 1. If initial Project-specific site disturbance, grading and vegetation removal cannot be conducted during this time period, pre-construction surveys for active nests within the limits of the Project shall be conducted by a qualified biologist. These surveys shall be conducted two weeks prior to any construction activities.
- d. If more than 30 days has elapsed between owl eviction and completion of clearing and grubbing activities, a subsequent survey for the burrowing owl shall be conducted to ensure that owls have not re-populated the site. Any reoccupation by owls will require subsequent protocol active eviction.

9. That there are no other relevant negative impacts of the proposed use that cannot be mitigated;

Comment: The proposed commercial center may have a significant effect on the environment and, therefore, an Environmental Impact Report (EIR) has been prepared in compliance with the California Environmental Quality Act (CEQA) and State Guidelines for the Implementation of CEQA. The EIR has identified anticipated significant environmental effects of the project in the areas of Air Quality, Traffic and Noise. Based upon the information provided, along with the attached Statement of Overriding Considerations and implementation of proper mitigation measures as defined and required in the various Codes and standards applicable to all development within the community, the proposed project will not produce adverse impacts upon the sites nor the surrounding properties.

10. That the impacts as described in paragraphs 1 through 9 above, and the proposed location, size, design and operating characteristics of the proposed use, and the conditions under which it would be operated or maintained, will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity, nor be contrary to the adopted General Plan; and

Comment: The proposed drive-through uses (two (2) fast food restaurants and a bank), by their design and operating characteristics, and with adherence to the conditions under which they will be operated and maintained, will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity.

11. That the proposed project will comply with all of the applicable provisions of this title and applicable Town policies.

Comment: The proposed drive-through uses (two (2) fast food restaurants and a bank), will be built in conformance to the Development Code, subject to approval of a Special Use Permit and adherence to the recommended Conditions of Approval.

12. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures;

Comment: The proposed commercial center is adjacent to Dale Evans Parkway, a major road. The project site is surrounded by commercial businesses to the west and southwest, the design, materials and details of the proposed project will enhance the existing commercial inventory in the area. The drive-through uses are not adjacent to a residential district or uses. All of the menu boards and signage will be in conformance with the proposed Sign Program and the drive-through lanes will be screened with a three (3)-foot high decorative wall and landscaping. The placement of the menu boards shall be sensitive to the location of the existing residential neighborhood so there is no impact. The site has been designed with Code compliant setbacks, parking and access points and landscape buffering (as specified in the Development Code); therefore, the proposal conforms to Code requirements.

13. That the development proposal does not unnecessarily block public views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use;

Comment: The proposed drive-through uses are in conformance with Code requirements for appropriate setbacks and height requirements. Each drive-through building site has efficient queuing area in the drive-through lanes to accommodate the 120 feet of vehicle stacking as required by Code. The entire project will front along Dale Evans Parkway which will be designed to accommodate retail commercial traffic. The two (2) fast food restaurants and bank drive-through uses will be compatible with surrounding uses because the site has been designed with adequate setbacks, parking and access points and landscape buffering (as specified in the Development Code).

14. That quality in architectural design is maintained in order to enhance the visual environment of the Town and to protect the economic value of existing structures.

Comment: The proposed drive-through uses, consisting of two (2) fast food restaurants and a bank, are designed with architectural elements and design features similar to other projects to the west and southwest commercial zoning designations. All of the drive-through lanes will be screened with a three (3)-foot high decorative wall and landscaping. The project will enhance surrounding development located within the General Commercial (C-G) Zoning District. The project, with adherence to recommended Conditions of Approval, is permitted subject to approval of a Special Use Permit.

15. That access to the site and circulation on and off-site is safe and convenient for pedestrians, bicyclists, equestrians and motorists.

Comment: The proposed drive-through uses, two (2) fast food restaurants and a bank, will be a part of the larger Walmart Super Center. The Walmart Super Center will be developed with a Bike Path along Dale Evans Parkway and the project will have bicycle racks throughout the site in compliance with the Code. The project includes two access points off Dale Evans Parkway. Off-site improvements required for the project will maintain a level of service "C" or better on Town roadways. Off-site improvements to State Route 18 will allow a level of service "D" to be maintained in accordance with Caltrans requirements. The applicant shall be required to provide a reciprocal access, circulation and parking agreement for the parcel to the southwest, allowing for better traffic flow for future development. Adjacent to the rear property line of the project, the applicants are responsible for developing a Lifeline Trail as part of the Town's Multi-Use trail system that will provide access for non-motorized users. Due to the numerous design measures and conditions of approval the circulation on and off site will be safe and convenient for all users. The proposal will not adversely impact access, circulation and the physical character of surrounding streets.

E. Variance

As required under Section 9.24.070 of the Development Code, prior to approval/denial of a Variance, the Planning Commission must make the following Findings:

1. That because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of this Code deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification;

Comment: The grade difference between the finished grade of the site, which is measured consistent with the intersection of Bass Hill Road and Dale Evans Parkway, and the residential lots to the northwest, is significant enough to require a retaining wall in addition to a screen wall. In providing the retaining wall and screen wall, the height of the wall exceeds the maximum height of six (6) feet allowed by Code. The proposed eight (8) to and twelve (12)-foot high wall is necessary due to the change in topography, and also to be able to provide a screen wall that is beneficial to the residential properties to buffer the single-family neighborhood from the noise of commercial activities and also enjoyed by other commercial developments within the area.

2. That granting the Variance will be consistent with the general intent and purpose of the Development Code provisions for the district in which the property is located;

Comment: Allowing the height of the wall to exceed the maximum height of six (6) feet will be consistent with the intent of the Development Code. The wall will provide screening between the residential property and the subject commercially developed site. The intent of the Development Code is to

allow for screening and also ensure sound buffer, privacy and safety to the neighboring residential uses. The change in topography on this site makes it necessary to retain the soil at the northwest perimeter of the site.

- 3 That granting the Variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same vicinity and zoning district and denied to the property for which the Variance is sought;

Comment: Screening from adjacent residential properties and retaining soil for properties that have a change in topography is enjoyed by other commercial development in the area and throughout the Town. Maintaining the six (6)-foot maximum height for a wall cannot be achieved for this property while still maintaining the sanctity of nearby residential neighborhoods. Further, approving this variance request will enable the applicant to be able to enjoy the same ability to have a retaining wall and screen wall allowed for other commercial development within the area.

4. That granting the Variance will not be materially detrimental to the public health, safety or welfare, or injurious to the property or improvements in such vicinity and land use district in which the property is located;

Comment: The eight (8) to twelve (12)-foot wall height will not cause a detriment to the surrounding neighborhood and will not be injurious to the commercial center or development for which the variance is granted. Indeed the purpose of the wall height Variance is to protect and enhance the viability of adjacent residential neighborhoods. The existing General Plan land uses designations and zoning district create a commercial buffer between Dale Evans Parkway and the single-family neighborhood. Dale Evans Parkway is the largest right-of-way in the Town with the exception of State Route 18. The commercial buffer of Dale Evans Parkway from the single-family residential neighborhood is an appropriate distribution of land uses in this area. The proposed wall height and setbacks provides a necessary buffer between the single-family uses and the commercial activity.

5. That granting the Variance does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and in the zoning district and General Plan land use designation such property is located; and

Comment: The Variance would not be a special privilege due to the topography of the site and the elevation difference between the site and the adjacent residential lots to the northwest. Other properties within the vicinity that have a grade difference, causing similar circumstances, could also request a variance. Properties that are flat would be able to provide a code-compliant screen wall and adequately protect nearby neighborhoods from noise generated by commercial activities. In this instance, in order to adequately protect the residential neighborhood

from noise generated by the project's activities, a Variance has been applied for and being recommended by staff for approval.

6. That granting the Variance does allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel.

Comment: The construction of a retaining wall and screen wall is a permitted activity related to the development of the proposed commercial retail building which is a permitted use on the subject property.

RECOMMENDATION

Based upon the information contained within this report, and any input received from the public at the hearing, it is recommended that the Planning Commission move the following:

7. **Determine** that the proposed Tentative Parcel Map, Development Permit, Conditional Use Permit, Special Use Permit and Variance will not have a significant effect on the environment with adherence to the Conditions of Approval, which include adherence to the Mitigation measures included within the EIR recommended in this report.
8. **Adopt** Planning Commission Resolution No. 2010-009, including the Environmental Findings, Mitigation Monitoring Program, Statement of Overriding Considerations and certify the Environmental Impact Report (SCH # 2006041094) for Tentative Parcel Map No. 18095, Conditional Use Permit No. 2005-024, Special Use Permit No. 2005-015 Variance No. 2009-001 and Sign Program No. 2005-040.
9. **Determine** the proposed project could have the potential for adverse effects on wildlife resources and the applicant is responsible for the payment of Fish and Game fees at the time the Notice of Determination is filed with the County.
10. **Find** that the facts presented in the staff report support the required Findings for approval and adopt those Findings.
11. **Approve** Tentative Parcel Map No. 18095, Development Permit No. 2010-009, Conditional Use Permit No. 2005-024, Special Use Permit No. 2005-015, Variance No. 2009-001 and Sign Program No. 2005-040, subject to the attached Conditions of Approval.
12. **Direct** staff to file a Notice of Determination.

Prepared By:

Reviewed By:

Douglas Fenn
Senior Planner

Lori Lamson
Assistant Director of Community Development

ATTACHMENTS:

1. Conditions of Approval

*Tentative Parcel Map No. 18095, Development Permit No. 2010-009, Conditional Use Permit No. 2005-024, Special Use Permit No. 2005-015, Variance No. 2009-001 and Sign Program No. 2005-040
January, 5, 2011 Planning Commission Meeting*

2. Site Plan
3. Building Elevations and Perspectives
5. Tentative Parcel Map No. 18095 (reduced copy)
6. Zoning/Location Map

TOWN OF APPLE VALLEY

RECOMMENDED CONDITIONS OF APPROVAL

Case No. Tentative Parcel Map No. 18095, Development Permit No. 2010-009, Conditional Use Permit No. 2005-024 and Special Use Permit No. 2005-015, Variance No. 2009-001 and Sign Program No. 2005-040.

Please note: *Many of the suggested Conditions of Approval presented herewith are provided for informational purposes and are otherwise required by the Municipal Code. Failure to provide a Condition of Approval herein that reflects a requirement of the Municipal Code does not relieve or alleviate the applicant and/or property owner from full conformance and adherence to all requirements of the Municipal Code.*

Planning Division Conditions of Approval

- P1. This project shall comply with the provisions of State law and the Town of Apple Valley Development Code and the General Plan. This conditional approval, if not exercised, shall expire three (3) years from the date of action of the reviewing authority, unless otherwise extended pursuant to the provisions of application of State law and local ordinance. The extension application must be filed, and the appropriate fees paid, at least sixty (60) days prior to the expiration date. The Tentative Parcel Map, Development Permit, Conditional and Special Use Permit (s), Variance and Sign Program become effective ten (10) days from the date of the decision unless an appeal is filed as stated in the Town's Development Code.
- P2. Prior to issuance of a building permit, the following agencies shall provide written verification to the Planning Division that all pertinent conditions of approval and applicable regulations have been met:
- Apple Valley Fire Protection District
Apple Valley Ranchos Water Company
Apple Valley Public Works Division
Apple Valley Engineering Division
Apple Valley Building Division
Apple Valley Planning Division
- P3. Tentative Parcel Map No. 18095, Development Permit No. 2010-009, Conditional Use Permit No. 2005-024, Special Use Permit No. 2005-015 and Sign Program No. 2005-040 shall adhere to all requirements of the Development Code. This approval authorizes the 246,034 square foot Walmart Super Center retail project along with related site amenities.
- P4. The applicant shall agree to defend, at its sole expense (with attorneys approved by the Town), hold harmless and indemnify the Town, its agents, officers and employees, against any action brought against the Town, its agents, officers or employees concerning the approval of this project or the implementation or performance thereof, and from any judgment, court costs and attorney's fees which the Town, its agents, officers or employees may be required to pay as a result of such action. The Town

- may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve the applicant of this obligation under this condition.
- P5. A fee of \$2,094.00 is required to be collected by the County for the processing of a NOD for the State Fish & Game fees. The fees must be paid within five (5) days of the approval of this application in order to reduce the Statute of Limitations to thirty (30) days. All fees must be submitted prior to the issuance of any permits. All checks shall be made payable to the Clerk of the Board of Supervisors.
- P6. The approval of Tentative Parcel Map No. 18095, Development Permit No. 2010-009, Conditional Use Permit No. 2005-024, Special Use Permit No. 2005-015 and Sign Program No. 2005-040 by the Planning Commission is recognized as acknowledgment of Conditions of Approval by the applicant, unless an appeal is filed in accordance with Section 9.12.250, *Appeals*, of the Town of Apple Valley Development Code.
- P7. The approval of the Conditional Use Permit authorizes the outdoor sale and display of building related merchandise and seasonal merchandise subject to the Conditions of Approval. Any changes or modifications to the approved use of the facility, including the automotive use, will be subject to current Development Code requirements.
- P8. Any outdoor storage shall be enclosed within the walls of the building (without a roof) to provide a screen so that the storage of materials and the staging area is not visible from public view. The truck loading bays at the northeast corner of the building shall also be enclosed with the walls of the building to provide a screen from public view from the west. The access to the outdoor storage and staging/loading areas can be gates made of tubular steel.
- P9. Tentative Parcel Map No. 18095, Development Permit No. 2010-009, Conditional Use Permit No. 2005-024, Special Use Permit No. 2005-015 and Sign Program No. 2005-040 may be reviewed annually or more often, if deemed necessary by the Economic and Community Development Department, to ensure compliance with the conditions contained herein. Additional conditions may be recommended to and imposed by the Planning Commission to mitigate any negative impacts resulting from the business operations not contained within the scope of this permit.
- P10. All slopes over three (3) feet in height shall be landscaped and irrigated according to Town standards.
- P11. Any protected desert plants or Joshua Trees impacted by development are subject to the regulations specified in Section 9.76.020 (Plant Protection and Management) of the Development Code. The Joshua Trees on site shall be relocated to a landscape planting area on site.
- P12. Prior to the issuance of building permits the applicant shall provide the Planning Division with a copy of the subdivision in an electronic format compatible with the Town's current technology.
- P13. Prior to occupancy, an agreement to grant reciprocal vehicular and pedestrian ingress, egress, parking and circulation access shall be recorded to extend over and across those areas designated as driveways, driving lanes and pedestrian walkways of the

respective parcel and with the future development or use to the southwest (APN 3112-251-07). If the southwest parcel has not submitted plans for development at the time of occupancy, the reciprocal agreement can include a public easement for the purposes of vehicular and pedestrian ingress, egress and parking. Submittal for review of the reciprocal agreement must be provided to the Planning Division prior to recordation. Proof of recordation shall be provided prior to issuance of a Certificate of Occupancy.

- P14. Parking requirements shall be met and be in compliance with Town standards. All parking stalls shall be clearly striped and permanently maintained with double or hairpin lines.
- P15. Required parking spaces shall be provided for the handicapped in accordance with Town standards and in accordance with Title 24 of the California Administrative Code. The handicapped spaces shall be located as close as practical to the entrance of the center. Each space must be provided with access ramps and clearly marked in accordance with Title 24 of the California Administrative Code.
- P16. Lighting fixtures throughout the site shall be of a type and be located in such a manner that no light or reflected glare is directed off-site and shall provide that no light is directed above a horizontal plane passing through the bottom of the fixture. All glare shall be directed onto the site and away from adjacent properties and light standards shall not exceed fifteen (15) in height adjacent to residential districts as required by the EIR.
- P17. Light standards shall blend architecturally with buildings, pedestrian areas and other hardscape elements.
- P18. All lighting used in parking lots for security purposes or safety-related uses shall be scheduled so light rays emitted by the fixture are projected below the imaginary horizontal plane passing through the lowest point of the fixture and in such a manner that the light is directed away from streets and adjoining properties.
- P19. It is the sole responsibility of the applicant on any Permit, or other appropriate discretionary review application for any structure to submit plans, specifications and/or illustrations with the application that will fully and accurately represent and portray the structures, facilities and appurtenances thereto that are to be installed or erected if approved by the Commission. Any such plans, specifications and/or illustrations that are reviewed and approved by the Planning Commission at an advertised public hearing shall accurately reflect the structures, facilities and appurtenances expected and required to be installed at the approved location without substantive deviations, modifications, alterations, adjustments or revisions of any nature.
- P20. Bricks, pavers or decorative stamped concrete shall be used to accent and highlight street entries, main travel lanes and pedestrian walkways in parking areas or focal areas.
- P21. Final landscape and irrigation plans shall be submitted and installed prior to issuance of occupancy permits, subject to approval by the Planning Division. A report from a licensed landscape architect shall be provided describing the types of trees proposed and their ability to sustain and grow within the high desert climate. In addition, this report shall provide a water budget that complies with the Town of Apple Valley

Landscape Irrigation Ordinance and State of California's Water Efficiency Landscape Ordinance

- P22. Landscaping shall be installed with appropriate combinations of drought tolerant trees, shrubs, and ground cover, consistent with Chapter 9.75, Water Conservation Landscape Regulations, of this Code.
- P23. The minimum tree within the center shall be a twenty-four (24)-inch box size specimen. At least one-half of the accent trees located in the areas of the entrances to the site shall be a minimum of forty-eight (48)-inch box size specimen.
- P24. Final landscape and irrigation plans shall be submitted prior to the issuance of Building permits and installed prior to issuance of occupancy permits subject to approval by the Planning Division.
- P25. All front building setbacks and street right-of-way areas located between on-site improvements and the back of existing or future public sidewalks or street curbs, except needed access driveways, shall be fully landscaped.
- P26. All required and installed landscaping shall incorporate 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.
- P27. The rendering(s) presented to and approved by the Planning Commission at the public hearing shall be the anticipated and expected appearance of the structure upon completion.
- P28. The height of the any architectural element/feature shall "not" exceed a height of forty-two (42) feet. All building, elevation and other corresponding and related plans shall reflect this condition at plan check and confirmed by staff on final field inspection.
- P29. All litter shall be removed from the exterior area around the premises including adjacent public sidewalk areas and parking areas no less frequently than once each day that the business is open.
- P30. The premises shall be maintained in a clean, weed-free and landscaping shall be maintained in a disease-free manner at all times.
- P31. All identification signs shall have a separate permit, must comply with the approved sign program and are subject to final approval by the Town Planning Division.
- P32. A combination of a low decorative wall and landscape berm shall provide a buffer of the drive-through lanes and windows that are adjacent from Dale Evans Parkway and parking lot.
- P33. Placement of menu boards for the drive-through facilities shall be received and approved by the Planning Division prior to issuance of building permits. The placement of the menu boards shall be sensitive to the view of the street and the potential noise generate by the noise generated by the signs in relation to adjacent single-family neighborhood.

- P34. Drive through stacking lanes shall be appropriately striped to designate the drive-through or with directional signs identifying the drive-through lanes, subject to review and approval of the Planning Commission.
- P35. No major deviation, modification, alteration, adjustment or revision to or from the appearance, location, fixtures, features or appurtenances thereto of any type or extent shall be approved without said changes being first submitted to the Planning Commission for consideration and approval. Said review shall not rise to the level of a revision to the original Permit or other discretionary review, therefore necessitating a new public hearing, but shall, instead, constitute a clarification of the Planning Commission's original approval.
- P36. The Planning Division shall review and approve the design of the retail pad buildings and allow minor changes to the elevations only if they are consistent with the overall appearance and intent of the center design approved by the Planning Commission.
- P37. Mitigation measures listed in the Certified EIR shall be made conditions of this project.
- P38. The proposed pylon shall not exceed twenty-five feet in height as required per Development Code 9.74.040-B 3 (a) "Free Standing Signs."
- P39. Relocate the monument signs and the pylon sign to be a minimum of fifty (50) feet south from the main entrances in order to not create any sight clearance issue.
- P40. Can signs, only for purposes of a logo may be approved on a case by case basis, provided that it is a registered trademark, symbol or logo commonly used by the tenant.
- P41. Exposed raceways and neon signs are prohibited.
- P42. The operator of the tire-lube express facility shall legally dispose of all motor oil and other hazardous substances in accordance to the requirements and satisfaction of the County Health Care Agency.
- P43. Service operations shall be performed entirely within the structure. No vehicle service shall take place in any parking space or drive aisle or partially protruding into a parking space, stacking area or drive aisle.
- P44. The storage of junk or permanently disabled or wrecked automobiles shall not be permitted. Used or discarded automotive parts or equipment shall not be located outside of the structure except within the designated trash storage area. No inoperative vehicles shall be permitted to be parked or stored on the site outside the building, including marked parking spaces.
- P45. Exterior public address systems and music shall be prohibited.
- P46. Delivery trucks are limited to delivering during the daytime hours of 7:00 a.m. to 8:00 p.m. Monday through Saturday.
- P47. The tire-lube facility shall be limited to the hours of 7:00 a.m. to 8:00 p.m. daily.

- P48. All requirements of the Town's Noise Ordinance shall be met at all times.
- P49. The applicant shall be responsible for taking appropriate corrective action to address any surface contamination as required for any accidental spills, as required to the satisfaction of the County Department of Health Services.

Park and Recreation Department Conditions of Approval

- PR1. Prior to issuance of building permits for new construction, the developer, or assignee, is subject to fees in compliance to the Park and Recreation Department Quimby Ordinance, subject to review by the Planning Division.

Engineering Division Conditions of Approval

- EC1. A final drainage plan with street layouts shall be submitted for review and approval by the Town Engineer showing provisions for receiving and conducting offsite and onsite tributary drainage flows around or through the site in a manner which will not adversely affect adjacent or downstream properties. This plan shall consider retaining onsite drainage flows from a 100 year design storm.
- EC2. Street improvement plans shall be submitted to the Town Engineer for review and approval.
- EC3. Dale Evans Parkway adjacent to the property shall be improved to the Town's half-width major road standards, including a raised median and sidewalks.
- EC5. Non-vehicular access rights shall be dedicated to the Town of Apple Valley along the frontage of the project on Dale Evans Parkway except at designated driveway locations.
- EC6. A frontage foot fee must be paid for improvements previously constructed on Dale Evans Parkway.
- EC7. A traffic signal shall be constructed on Dale Evans Parkway at the northeast access driveway. Signal must have battery back-up, pre-emption, and be interconnected with nearby signals.
- EC8. During the grading of the roads, soils testing of the road sub grades by a qualified soils engineering firm shall be performed to determine appropriate structural road section. Minimum asphalt concrete thickness for all streets shall be 0.33 ft.
- EC9. An encroachment permit shall be obtained from the Town prior to performing any work in any public right-of-way.
- EC10. Final improvement plans and profiles shall indicate the location of any existing utility which would affect construction and shall provide for its relocation at no cost to the Town.
- EC11. A final grading plan shall be submitted to the Town Engineer for review and approval prior to issuance of a grading permit. A grading permit shall not be issued until street improvement plans have been submitted to the Town Engineer for review and

substantial completion of the street plans has been attained as determined by the Town Engineer.

- EC12. Utility lines shall be placed underground in accordance with the requirements of the Town.
- EC13. Traffic impact fees adopted by the Town shall be paid by the developer.
- EC14. Any developer fees including but not limited to drainage fees shall be paid by the developer as per Town enactment.
- EC15. Any required street striping shall be thermoplastic as approved by the Town Engineer.
- EC16. Grading and drainage parameters shall be in compliance with the Building Code and Town ordinances. The developer shall provide landscaping of the basin and all parkway areas adjacent to all public rights of way, subject to the approval of the Town, and shall form or establish an assessment district or other approved property owner association to provide for the on-going maintenance of the retention basins and other landscaped areas. The developer shall pay for all costs relating to establishment of the district. The retention basins shall also include Town Standard two-stage dry wells to help facilitate the rapid removal of storm water.

Community Services Division Conditions of Approval

- CS1. A standard bus turn-out shall be incorporated into the improvements to Dale Evans Parkway to accommodate a forty (40)-foot vehicle. Location and design considerations shall be given to ensure a convenient entrance, unobstructed and continuous path of travel to comply with ADA regulations and locating the turnout a sufficient distance from the nearest driveway so that the turnout does not impede ingress and egress of vehicles.

Building and Safety Division Conditions of Approval

- BC1. Grading and drainage plans must be submitted to and approved by the Building Official, Planning Department and Town Engineer prior to permit issuance.
- BC2. Submit plans and obtain permits for all structures and retaining walls.
- BC3. A pre-construction permit and inspection are required prior to any land disturbing activity to verify requirements for erosion control, flood hazard native plant protection and desert tortoise habitat.
- BC4. A Notice of Intent (NOI) and Storm Water Prevention Plan (SWPP) must be submitted to and approved by the Engineering and Building Departments prior to issuance of a grading permit and or any land disturbance.
- BC5. All utilities shall be placed underground in compliance with Town Ordinance No. 89.
- BC6. Comply with the State of California Disability Access requirements.

- BC7. A pre-grading meeting is required prior to beginning any land disturbance. This meeting will include the Building Inspector, General Contractor, Grading Contractor, soils technician and any other parties required to be present during the grading process such as a Biologist and/or Paleontologist.

Public Works Division Conditions of Approval

PRIOR TO RECORDATION:

- PW1. The subject property is located within the boundaries of Assessment District No.2B, which currently has an active assessment bond issue. The applicant must substantiate bond reapportionment. The bond reapportionment will divide the bond assessment among the subdivided parcels.
- PW2. Sewage disposal shall be by connection to the Town of Apple Valley sewer system. Financial arrangements, plans and improvement agreements must be approved by the Town of Apple Valley Public Works Department.

NON-STANDARD CONDITIONS:

- PW3. A grease interceptor with minimum capacity of 750 gallons shall be required for all floor drains and service sinks, and all other receptors of grease and oil-bearing wastes.

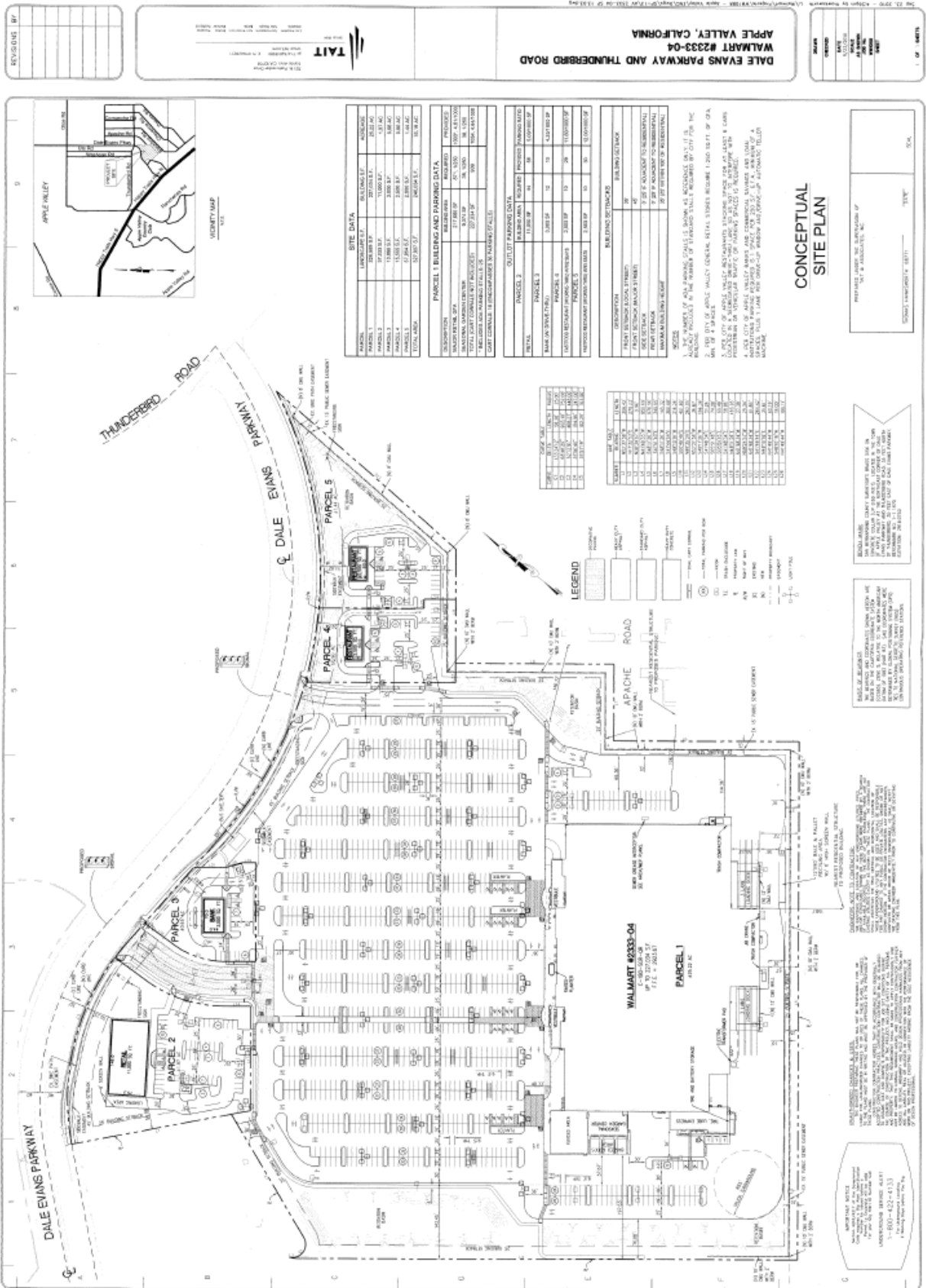
Apple Valley Fire Protection District Conditions of Approval

- FD1. The above referenced project is protected by the Apple Valley Fire Protection District. Prior to construction occurring on any parcel, the owner shall contact the Fire District for verification of current fire protection development requirements.
- FD2. A turnaround shall be required at the end of each roadway 150 feet or more in length and shall be approved by the Fire District. Turning radius on all roads within the facility shall not be less than twenty-two (22) feet inside and minimum of forty (40) feet outside turning radius with no parking on street, or forty-seven (47) feet with parking. Uniform Fire Code, Section 902.2.2.3. Apple Valley Fire Protection District Ordinance 41, Section 1 (e). Install per A.V.F.P.D. Standard Series #202.
- FD3. Plans for fire protection systems designed to meet the fire flow requirements specified in the Conditions of Approval for this project shall be submitted to and approved by the Apple Valley Fire Protection District and water purveyor prior to the installation of said systems. Apple Valley Fire Protection District, Ordinance 42.
- A. Unless otherwise approved by the Fire Chief, on-site fire protection water systems shall be designed to be looped and fed from two (2) remote points. The minimum water main size for commercial is twelve (12) inches for residential development, eight (8) inches.
- B. System Standards:
*Fire Flow 5,250 GPM @ 20 psi Residual Pressure
Duration 4 Hour(s)
Hydrant Spacing 330 Feet

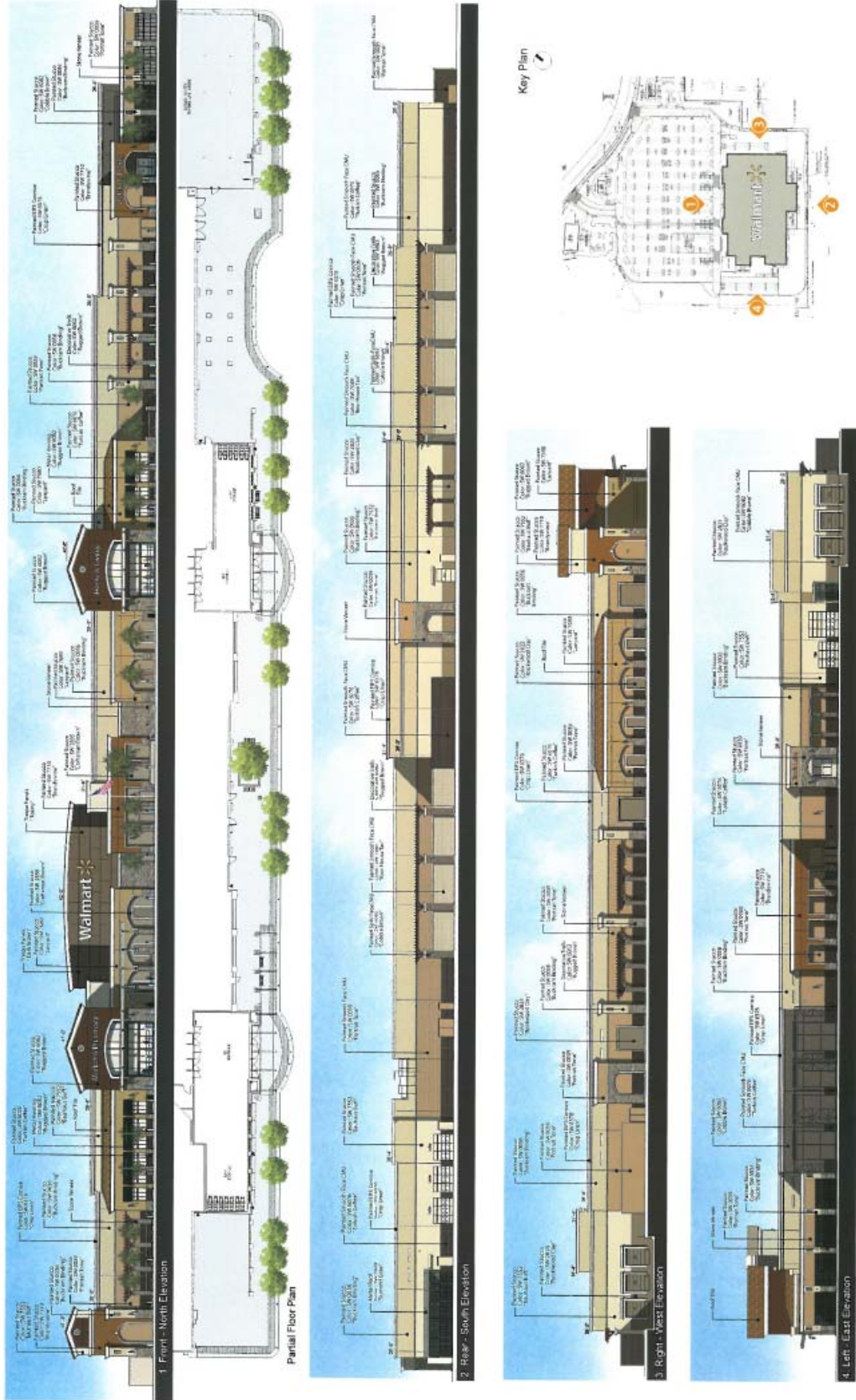
*If blank, flow to be determined by calculation when additional construction information is received. Install per A.V.F.P.D. Standard Series #101.

- C. The total number of fire hydrants will be determined at a later date. It is the responsibility of the owner/developer to provide all new fire hydrants with reflective pavement markers set into pavement and curb identification per A.V.F.P.D. Standard. Install per A.V.F.P.D. Standard Series #101.
- FD4. An approved fire sprinkler system shall be installed throughout any building:
- 5,000 square feet or greater, including garage and enclosed areas under roof, or
 - Other per California Building Code requirements.
- The system shall be supervised and connected to an approved alarm monitoring station and provide local alarm which will give an audible signal at a protected location. Supervision to be both water flow and tamper. Sprinkler work may not commence until approved plans and permits have been issued by the Fire District. Apple Valley Fire Protection District, Ordinance 41.
- FD5. A letter shall be furnished to the Fire District from the water purveyor stating that the required fire flow for the project can be met prior to the Formal Development Review Committee meeting.
- FD6. Apple Valley Fire Protection District Final Subdivision/Tract/Development fees shall be paid to the Fire District prior to final map acceptance according to the current Apple Valley Fire Protection District Fee Ordinance.
- FD7. Prior to issuance of a Building Permit, the developer shall pay all applicable fees as identified in the Apple Valley Fire Protection District Ordinance.
- FD8. A Knox Box Rapid Entry System shall be required for this project. Uniform Fire Code, Section 902.4. Install per A.V. F.P.D. ARI #5.
- FD9. Apple Valley Fire Protection District Plan Review fees in the amount of \$1,840 are now due.

END OF CONDITIONS



Tentative Parcel Map No. 18095, Development Permit No. 2010-009, Conditional Use Permit No. 2005-024, Special Use Permit No. 2005-015, Variance No. 2009-001 and Sign Program No. 2005-040
 January, 5, 2011 Planning Commission Meeting



Perkwitz + Ruth
 ARCHITECTS

Apple Valley, California
 Project No. #25594

May 10, 2010

Exterior Elevations

A-2.0

0 10 20 30 40

PERSON REPRESENTATION ONLY - NOT FOR CONSTRUCTION. THE DRAWING depicts the design concept only. The actual project may differ in appearance from that shown. The drawing is not intended to be a contract. All dimensions, materials, and specifications are to be verified by the project owner.

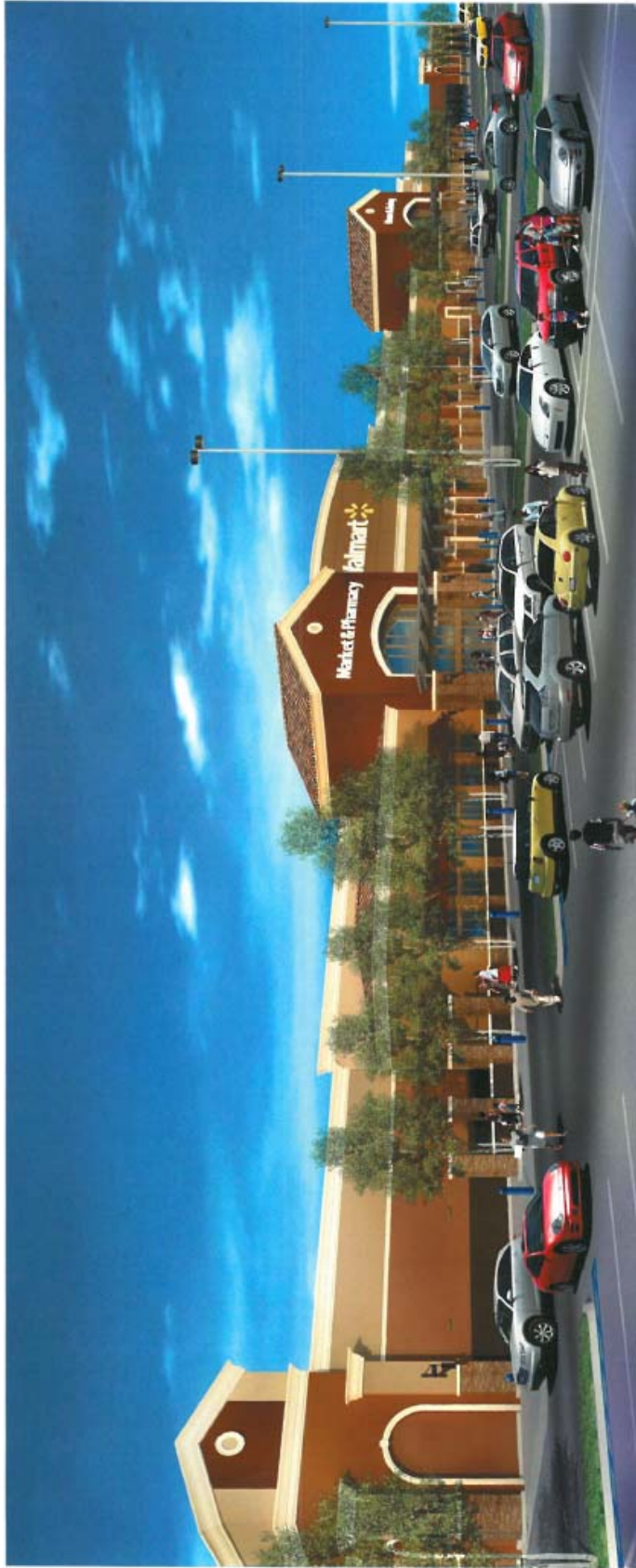
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 January, 5, 2011 Planning Commission Meeting



Note: Elevations are subject to final approval by the City.

<p>Perkowitz + Ruth ARCHITECTS 1000 N. GATE AVENUE, SUITE 100 ANAHEIM, CALIFORNIA 92816 TEL: 714.944.8800 FAX: 714.944.8801 WWW.PRA-ARCHITECTS.COM</p>	<p>September 23, 2010</p>	<p>Apple Valley, California Fifth 151 Phase #203 (4)</p>	<p>Perspective 1</p> <p style="text-align: right;">A-3.0</p>
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Tentative Parcel Map No. 18095, Development Permit No. 2010-009, Conditional Use Permit No. 2005-024, Special Use Permit No. 2005-015, Variance No. 2009-001 and Sign Program No. 2005-040
 January, 5, 2011 Planning Commission Meeting



Key Plan

Note: Elevations are subject to final approval by the City.

<p>Parkowitz+Ruth ARCHITECTS</p>	<p>September 23, 2010</p>	<p>Apple Valley, California Project No. 09-2010-04</p>	<p>Perspective 2</p>	<p>A-3.1</p>
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RENDERINGS ARE FOR ILLUSTRATION PURPOSES ONLY. THIS ARCHITECTURAL RENDERING IS NOT A CONTRACT. THE ARCHITECT ASSUMES NO LIABILITY FOR THE ACCURACY OF THE INFORMATION PROVIDED IN THIS ARCHITECTURAL RENDERING. THE ARCHITECT ASSUMES NO LIABILITY FOR THE ACCURACY OF THE INFORMATION PROVIDED IN THIS ARCHITECTURAL RENDERING.

Tentative Parcel Map No. 18095, Development Permit No. 2010-009, Conditional Use Permit No. 2005-024, Special Use Permit No. 2005-015, Variance No. 2009-001 and Sign Program No. 2005-040
 January, 5, 2011 Planning Commission Meeting



Note: Elevations are subject to final approval by the City.

	September 23, 2010	Apple Valley, California Project No. 100-12-0000-01	Perspective 3 A-3.2
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Tentative Parcel Map No. 18095, Development Permit No. 2010-009, Conditional Use Permit No. 2005-024, Special Use Permit No. 2005-015, Variance No. 2009-001 and Sign Program No. 2005-040
 January, 5, 2011 Planning Commission Meeting



Key Plan



A-3.3

Perspective 4

Note: Elevations are subject to final approval by the City.

Apple Valley, California
 Project No. 10-009

September 23, 2010

Perkowitz + Ruth
 ARCHITECTS

PERKOWITZ + RUTH ARCHITECTS, INC. 10000 BROADWAY, SUITE 200, APPLE VALLEY, CA 92408 TEL: 951-937-1111 FAX: 951-937-1112 WWW.PRA.COM



	TRESPA METEON "CENTER"		SHERWIN WILLIAMS "SW #7552 BAUHAUS BUFF"
	TRESPA METEON "DARK BROWN"		SHERWIN WILLIAMS "SW #6282 COBBLE BROWN"
	CLAY TILE ROOF US TILE - OLD WORLD BLEND		SHERWIN WILLIAMS "SW #2835 CRAFTSMAN BROWN"
	STONE VENEER-CORONADO STONE WEATHERED EDGE "WISCONSIN BLEND"		SHERWIN WILLIAMS "SW #0036 BUCKRAM BINDING"
	SHERWIN WILLIAMS "SW #6378 CRISP LINEN"		SHERWIN WILLIAMS "SW #0039 PORTRAIT TONE"
	SHERWIN WILLIAMS "SW #7680 LANYARD"		SHERWIN WILLIAMS "SW #6076 TURKISH COFFEE"
			SHERWIN WILLIAMS "SW #6062 RUGGED BROWN"

Perkowitz + Ruth
ARCHITECTS

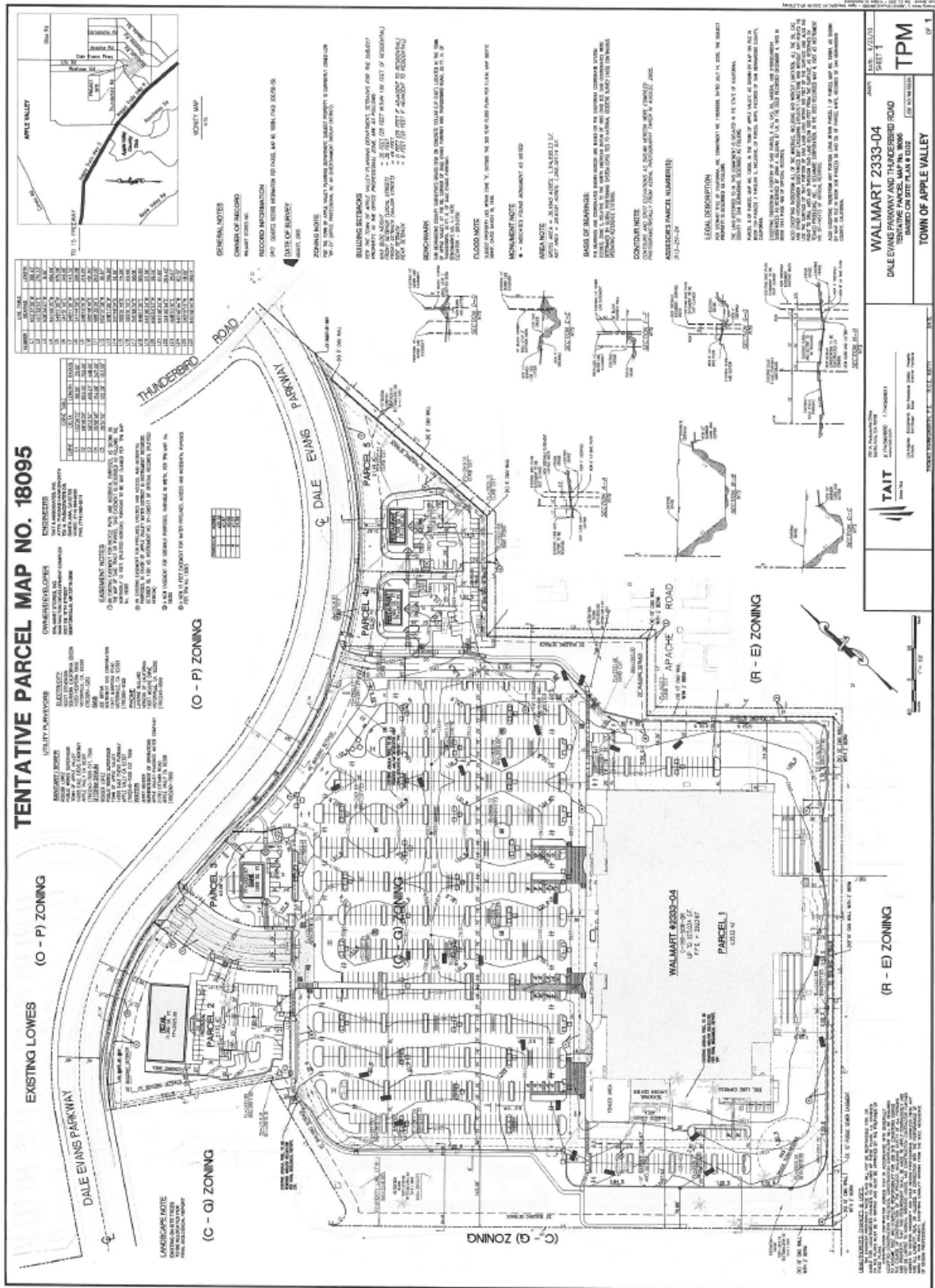
March 05, 2010

Material Board
Conceptual

MB

Apple Valley, California
 Photo: 180 Store # 3333-04

Tentative Parcel Map No. 18095, Development Permit No. 2010-009, Conditional Use Permit No. 2005-024, Special Use Permit No. 2005-015, Variance No. 2009-001 and Sign Program No. 2005-040
 January, 5, 2011 Planning Commission Meeting



TPM 18095; DP 2010-009;
 CUP 2005-024; SUP 2005-015;
 SNPG 2005-040; VAR 2009-001

Zoning/Location Map

East side of Dale Evans
 Parkway between Bass Hill
 Road and Thunderbird Road

APN 3112-251-24



Legend

- (R-VLD) Very Low Density Residential
- (RLD) Low Density Residential
- (RE) Estate Residential
- (RE-3/4) Estate Residential 3/4
- (R-SF) Single Family Residential
- (RM) Medium Density Residential
- (MHP) Mobile Home Park
- (PRD) Planned Residential Development
- (CG) General Commercial
- (CS) Service Commercial
- (CP) Office Professional
- (CR) Regional Commercial
- (IP) Planned Industrial
- (IRE) Resource Extraction
- (PF) Public Facilities
- (OS-C) Open Space Conservation
- (OS-R) Open Space Recreation
- (MU) Mixed Use
- (SP) Specific Plan

